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The Marine Mammal Commission Compendium of Selected Treaties, International Agreements, and Other Relevant Documents on Marine Resources, Wildlife, and the Environment



Second Update

The Marine Mammal Commission
compendium of selected
treaties, international
agreements, and other
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The Marine Mammal Commission Compendium of Selected Treaties, International Agreements, and Other Relevant Documents on Marine Resources, Wildlife, and the Environment

Compiled by

Heidi W. Weiskel
Richard L. Wallace
Melissa M. Boness

for the

Marine Mammal Commission
Bethesda, Maryland, USA
2000

Second Update

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Preface

In 1994, the Marine Mammal Commission published *The Marine Mammal Commission Compendium of Selected Treaties, International Agreements, and Other Relevant Documents on Marine Resources, Wildlife, and the Environment.* The three volumes, containing more than 400 documents concluded by 31 December 1992, were recognized internationally as the authoritative collection of environmental agreements. In 1997, the Marine Mammal Commission published the *First Update to the Compendium,* adding more than 100 legal documents that had been concluded between 1 January 1993 and 31 December 1995.

This, the *Second Update,* continues the tradition of providing scholars, professionals, students, organizations, and governments with the most comprehensive collection of international environmental texts available. Covering the period 1 January 1996 through 31 December 1998, it also contains a number of relevant older documents not included in the earlier volumes. Together, the five volumes of the *Compendium* total more than 6,000 pages and include more than 650 binding and non-binding documents.

As with the earlier volumes, the Commission relied on the expert guidance of the Advisory Board in determining the appropriate content, structure, and format for the *Second Update*. The members of the Advisory Board deserve our thanks for their key roles in fashioning the most useful and comprehensive manuscript possible. Mary M. Brandt, William T. Burke, Gabriele Goettsche-Wanli, Lee A. Kimball, Dean Swanson, and Warren S. Wooster were particularly helpful.

The documents in the *Second Update* came from many sources, including the Treaty Office of the U.S. Department of State, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the Law of the Sea Office of the United Nations, the Food and Agriculture Organization of the United Nations, the Organization of Economic Cooperation and Development, and the secretariats established under several conventions. We thank these organizations.

While we are grateful to many people for their help, three individuals deserve special praise. Heidi W. Weiskel managed the production of the *Second Update,* did most of the research, and coordinated the many tasks involved in compiling the texts and preparing them for publication. We thank her for her dedication and skill in managing all elements of production. We also thank Richard L. Wallace, who compiled and oversaw the production of the original *Compendium* and the *First Update,* gave organizational guidance, provided advice on the research and production processes, and generally maintained an overview of activities. Finally, Melissa M. Boness contributed substantially to the research process and compiled many of the documents in the *Update.* We are much in her debt.

I also wish to thank the Marine Mammal Commission's three Commissioners, John E. Reynolds, III, Chairman, Vera Alexander, and Paul K. Dayton, who encouraged production of this and the previous *Compendium* volumes.

Special thanks are due to the U.S. Department of State, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the U.S. Department of Justice for their generous financial assistance, which has made all three phases of this project possible.

We hope the *Second Update* will serve the international community well.

John R. Twiss, Jr.
Executive Director
Marine Mammal Commission
Bethesda, Maryland, USA
August 2000

MULTILATERAL

ANTARCTICA AND THE ARCTIC

Measures Approved or Recommended Under Article IX in Furtherance of the Principles and Objectives of the Antarctic Treaty of 1 December 1959, Utrecht, 1996

Done at Utrecht 10 May 1996

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Measure I (1996)

Revised Description and Management Plan for Sites of Special Scientific Interest (SSSI)

The Representatives,

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty,

For the Sites of Special Scientific Interest mentioned below.

(i) the Management Plan inserted in the Annex to Recommendation XIII-8 on the Facilitation of scientific research: Sites of Special Scientific Interest be deleted;

(ii) the relevant Management Plan of the Sites of Special Scientific Interest, annexed to this Measure, be inserted in the Annex to Recommendation XIII-8 on the Facilitation of scientific research: Sites of Special Scientific Interest;

The Sites of Special Scientific Interest concerned are:

SSSI No 9 Rothera Point, Adelaide Island

SSSI No 19 Linnaeus Terrace, Asgard Range, Victoria Land;

(iii) that the Consultative Parties ensure that their nationals comply with mandatory provisions of the new Management Plans.

Measure II (1996)

Antarctic Protected Area System: New Historic Sites and Monuments

The representatives,

Recalling Recommendations I-IX, V-4, VI-14, VII-9, XII-7, XIII-16 and XIV-8, Measures 4 and 5 (1995) and Resolution 8 (1995),

Recommend to their governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty

to add the following historic monuments to the "List of Historic Monuments Identified and Described by the proposing Government of Governments" annexed to recommendation VII-9, thereby guaranteeing its full protection and respect as envisaged by the Recommendations noted above.

Mikkelsen Cairn, Tryne Islands, Vestfold Hills. A rock cairn and a wooden mast erected by the landing party led by Captain Klarius Mikkelsen of the Norwegian whaling ship Thorshavn and including Caroline Mikkelsen, Captain Mikkelsen's wife, the first woman to set foot on East Antarctica. The cairn, at latitude 6822'34"S longitude 7824'33"E was discovered by Australian National Antarctic Research Expedition field parties in 1957 and again in 1995.

Management Plan
for Site of Special Scientific Interest (SSSI) No. 9
ROTHERA POINT, ADELAIDE ISLAND

I. Description of Values to be Protected

Rothera Point was originally designated in Recommendation XIII-8 (1985, SSSI No. 9) after a proposal by the United Kingdom that the Site would serve as a biological research site and control area against which the effects of human impact associated with the adjacent Rothera Research Station (UK) could be monitored in an Antarctic fulfilled ecosystem. The Site itself has little intrinsic nature conservation value.

2. Aims and Objectives

2 (i) Aims
Management of Rothera Point aims to:

- avoid major changes to the structure and composition of the terrestrial ecosystems, in particular to the fell-field ecosystem and breeding birds, by:
  - — preventing physical development within the site, and;
  - — limiting human access to the Site to maintain its value as a control area for environmental monitoring studies;
- allow scientific research and monitoring studies of breeding birds, terrestrial and freshwater biota, and soils, while ensuring as far as possible that the Site is protected from over-sampling;
- alow regular visits for management purposes in support of the objectives of the management plan.

2 (ii) Objectives
The Site is unique in Antarctica as it is the only protected area currently designated (1995) solely for its value in the monitoring of human impact. The objective is to use the Site as an unaffected control area in assessing the impact of activities undertaken at Rothera Research Station on the Antarctic environment.

The hypothesis being tested is that the activities undertaken at Rothera Research Station have not caused environmental impact within the Site.

Monitoring studies undertaken by the British Antarctic Survey (BAS) began at Rothera Point in 1976, before the establishment of the station later that year, and have expanded considerably since 1989. The BAS plans to continue monitoring studies in the future.

The purposes of the monitoring programme (1995) are to:

- survey the distribution of terrestrial flora and invertebrates every decade;
- assess heavy metal concentrations in lichens every five years;
- assess petroleum hydrocarbon concentrations in gravel and soil every other year;
- survey the breeding bird population annually.

3. Management Activities

The following management activities are to be undertaken to protect the values of the Area:

- signboards illustrating the location and boundary of the Site and stating entry restrictions shall be erected at the major access points and serviced on a regular basis;
- a map showing the location and boundaries of the Site and stating entry requirements shall be displayed in a prominent position at Rothera Research Station;
- visits shall be made as necessary (no less than once every two years) to assess whether the Site continues to serve the purposes for which is was designated and to ensure management activities are adequate.

4. Period of Designation

Designation for an indefinite period.

5. Maps

Map 1 shows the location of Rothera Point in relation to northern Marguerite Bay. Map 2 shows the Site in greater detail, with an inset showing the Site in relation to Rothera Research Station.

6. Description of the Area

6 (i) Geographical coordinates, boundary markers and natural features
Rothera Point (lat. 67 34'S, long 68 08'W) is situated in Ryder Bay, at the south-east corner of Wright Peninsula on the east side of Adelaide Island, south-west Antarctic Peninsula.

The Site is the north-eastern one-third of Rothera Point (Map 2), and is representative of the area as a whole. It is about 300 m from west to east and 250 m from north to south, and rises to a maximum height of 36 m. At the coast, the Site boundary is the 2.5 m contour. No upper shore, littoral or sublittoral areas of Rothera Point are therefore included within the SSSI. The southern boundary of the Site, running across Rothera Point, is marked by a line of pink fuel drums filled with concrete. The remaining boundary is unmarked. There are two signboards just outside the perimeter of the Site located at the starting points of the pedestrian access rout around Rothera Point.

The Site boundary extends to the 2.5 m contour at the coast. There is unrestricted pedestrian access below this contour height around Rothera Point. The recommended pedestrians access route follows the Mean High Water Mark (MHWM) and is shown on Map 2.

Small areas of permanent ice occur to the north and south of the summit of the SSSI. There are no permanent streams or pools.

The rocks are predominantly heterogeneous intrusions of diorite, granodiorite and adamellite of the mid-Cretaceous-Lower Tertiary Andean Instrusive Suite. Veins of copper ore are prominent bright green stains on the rock. Soil is restricted to small pockets of glacial till and sand on the rock bluffs. Local deeper deposits produce scattered small circles and polygons of frost sorted material. There are no extensive areas of patterned ground. Around prominent rock outcrops used as bird perches by Dominican gulls *(Larus dominicanus)* there are accumulations of recent and decaying limpet *(Nacella concinna)* shells forming patches of calcareous soil. There are no accumulations of organic matter.

There are no special or rare geological or geomorphological features in the Site.

The limited terrestrial biological interest within the Site is confined to the rock bluffs where there is locally abundant plant growth dominated by lichens. The vegetation is representive of the southern "maritime" Antarctic fellfield ecosystem and is dominated by the fruticose lichens *Usnea antarctica*, *U.sphacelata*, and *Pseudephebe minuscula*, and the foliose lichen *Umbilicaria decussata*. Numerous crustose lichens are associated, but bryophytes (mainly *Andreaea* spp.) are sparse.

A single very small population of antarctic pearlwort *(Colobanthus quitensis)* occurs below the northern cliff of the Site, whilst a few plants of Antarctic hair grass

(Deschampsia antarctica) have become established at two locations since 1989.

The invertebrate fauna is impoverished and consists only of a few species of mites and springtails, of which *Halozetes belgicae* and *Cryptopygus antarcticus* are the most common.

There are no special or rare terrestrial flora and fauna in the Site.

Brown and south polar skuas *(Catharacta lonnbergii* and *C. maccormicki)* are the most abundant breeding birds found in the Site, with three pairs of skuas recorded nesting in the 1994/95 season. A pair of Dominican gulls

(Larus dominicanus) nest in the Site. Wilson's storm petrels *(Oceanites oceanicus)* also breed, but only one nest has been found.

Rothera Research Station (UK) lies about 250 m west of the western boundary of the Site (see inset on Map 2).

6 (ii) Restricted zones within the Site
None.

6 (iii) Location of structures within the Site
A rock cairn marks the summit of the Site (36 m) and 35 m to the east south east of it there is another cairn (35.4) marking a survey station.

6 (iv) Location of other Protected Areas within close proximity
SPA No. 8, Dion Islands, Marguerite Bay, lies about 15 km south of Adelaide Island. SPA No. 19, Lagotellerie Island, Marguerite Bay, lies about 11 km south of Pourquoi Pas Island. SPA No. 21, Avian Island, Marguerite Bay, lies about 0.25 km south of the south-west tip of Adelaide Island. The locations of these SPAs are shown on Map 1.

7. Permit Conditions

Entry to the Site is prohibited without a Permit. Permits shall be issued only by appropriate national authorities, and may contain both general and specific conditions.

General conditions for issuing a Permit to enter the Site may include:

- activities limited to scientific research or monitoring purposes;
- the actions permitted will not jeopardize the ecosystem or scientific or monitoring values of the Site.
- any management activities are in support of the objectives of the Management Plan;
- the actions permitted are carried out in accordance with this Management Plan;
- the permit holder must carry the permit, or an authorized copy, within the Site.

National authorities may attach further general and specific conditions to a permit.

7 (i) Access to and movement within the Site
Access to the Site shall be on foot.

Landing of helicopters within the Site is prohibited. As far as practicable, helicopter overflight of the Site shall be avoided.

Vehicles are prohibited in the Site.

7 (ii) Activities which are or may be conducted within the Site, including restrictions on time and place
Activities which are or may be conducted within the Site are:

- scientific research or monitoring which will not jeopardise the ecosystems of the Site;
- essential management activities.

7 (iii) Installation, modification or removal of structures
No structures are to be erected in the Site, or equipment installed, except for essential scientific or management activities (eg. signboards, monitoring equipment) as specified in the permit.

All scientific and monitoring equipment, including marker stakes, installed in the Site must be approved by Permit and clearly identified to show principal investigator, project and year of installation. The Permit holder must remove any scientific or monitoring equipment installed as soon as it is no longer required or on the expiry of the permit which ever is the sooner.

7 (iv) Location of field camps
Camping in the Site is prohibited. Accommodation may be available at Rothera Research Station.

7 (v) Restrictions on materials and organisms which may be brought into the site
No non-indigenous living animals, plant material, microorganisms or soil shall be deliberately introduced into the Site.

Any hazardous substances or chemicals, including radioisotopes, which may be introduced for scientific, monitoring or management purposes specified in the Permit, shall be removed from the Site at or before the conclusion of the activity for which the Permit was granted.

Fuel, food and other materials must not be stored in the Site, unless required for essential purposes connected with the activity for which the Permit has been granted. All such materials introduced shall be removed from the Site at or before the conclusion of the activity for which the Permit was granted. Permanent depots are not permitted.

No poultry products, including food products containing uncooked dried eggs, shall be taken into the Site.

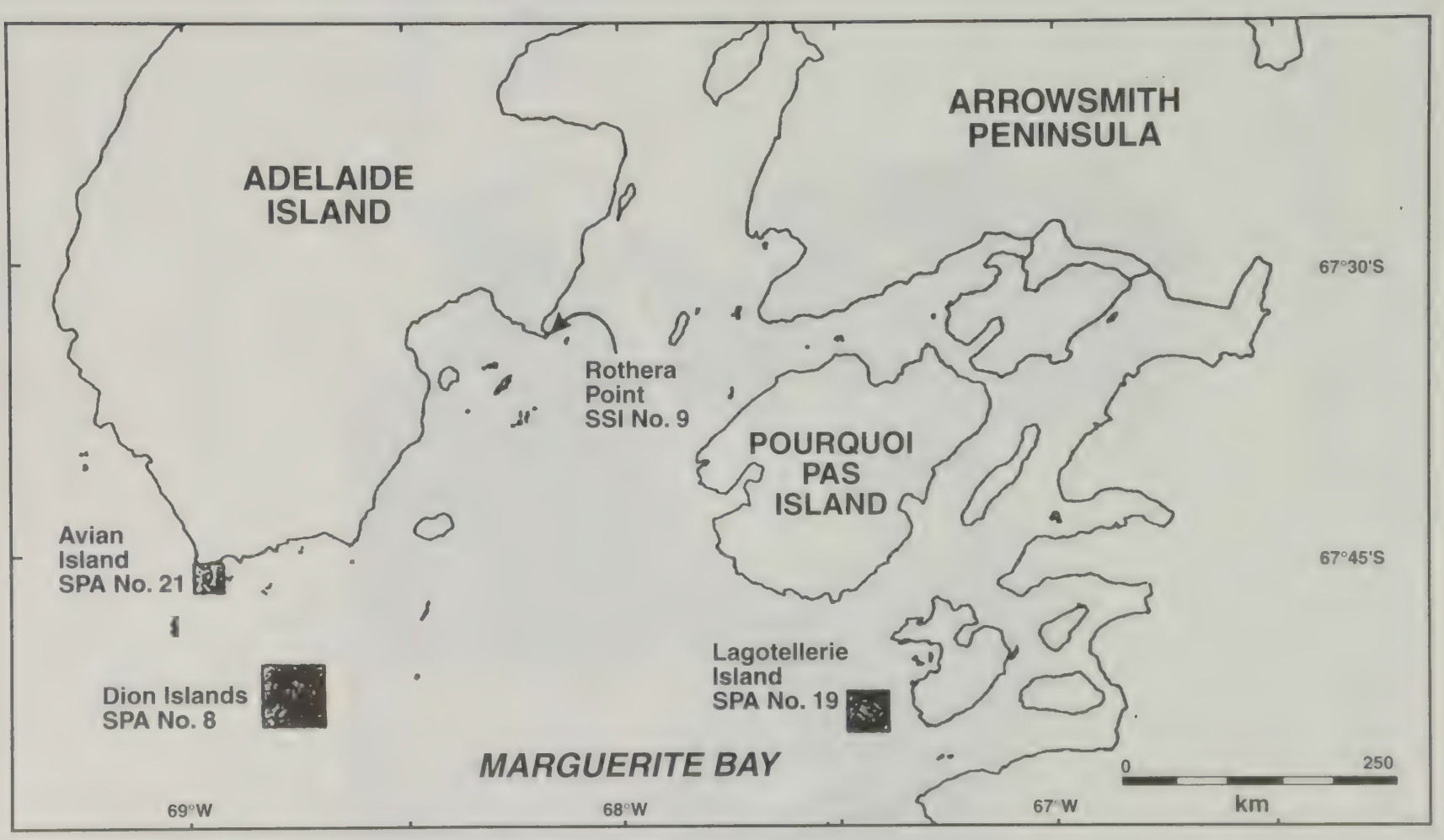
7 (vi) Taking of or harmful interference with native flora and fauna
Taking of or harmful interference with native flora and fauna is prohibited, except in accordance with a Permit. Where taking of or harmful interference with animals is involved this should be in accordance with the SCAR Code of Conduct for the use of Animals for Scientific Purposes in Antarctica, as a minimum standard.

7 (vii) Collection or removal of anything not brought into the Area by the Permit holder
Material may be collected and/or removed from the Site only in accordance with a Permit and should be limited to the minimum necessary to meet scientific or management needs. Material of human origin not brought into the site by the Permit holder, or otherwise authorised, which is likely to compromise the values of the Site shall be removed unless the impact of removal is likely to be greater than leaving the material in situ. In the latter case the appropriate authority shall be notified.

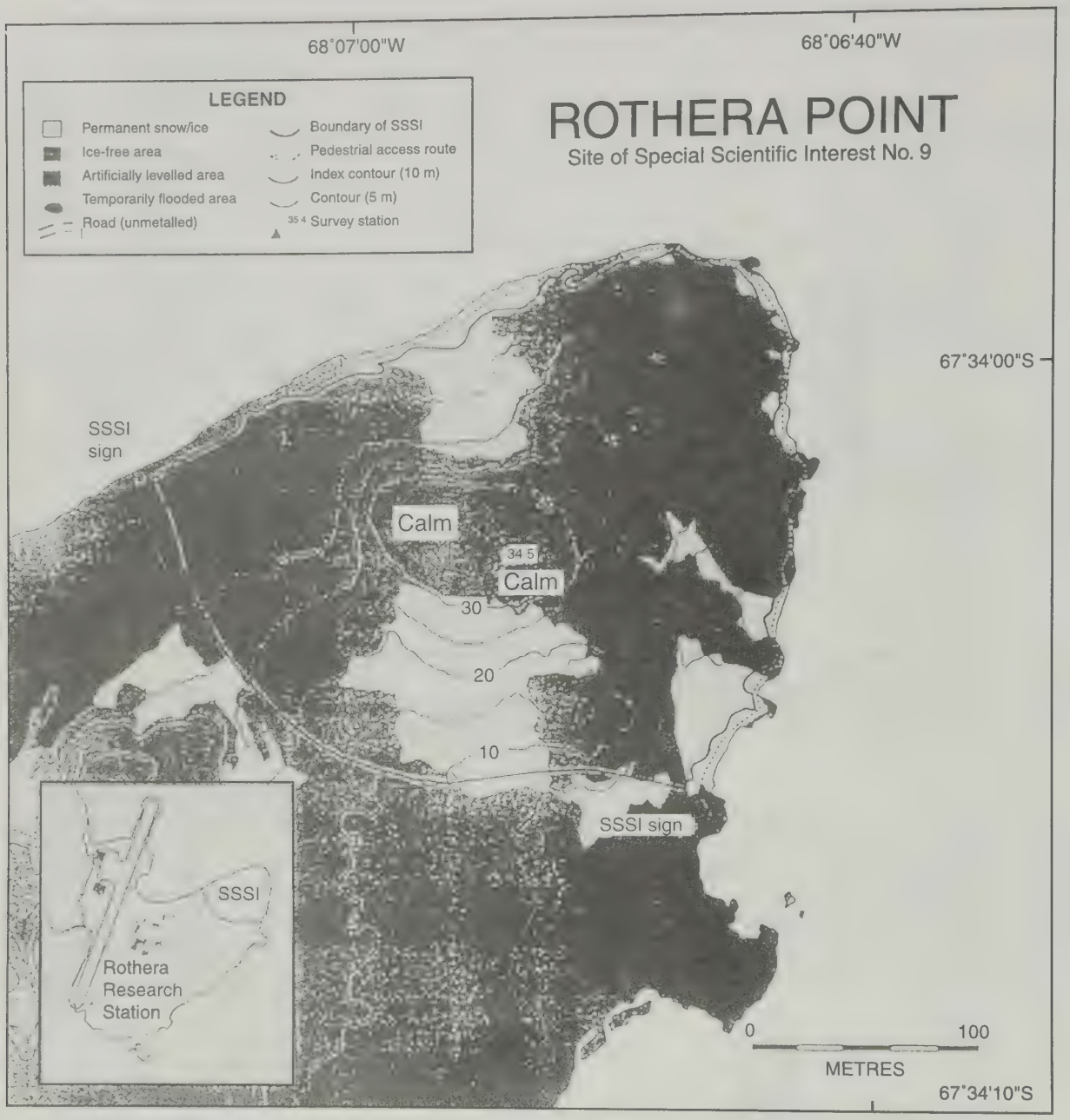
7 (viii) Disposal of wastes
All wastes, including all human wastes, must be removed from the Site.

7 (ix) Measures that are necessary to ensure that the aims and objectives of the Management Plan can continue to be met
Permits may be granted to enter the Site to carry out scientific research, monitoring and site inspection activities, which may involve the collection of a small number of samples for analysis, to erect or maintain signboards, or to carry out protective measures.

7 (x) Requirements for reports
Parties should ensure that the principal holder of each Permit issued submits to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report Form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary description of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should, wherever possible, deposit originals or copies of such original reports in a publicly accessible archive to maintain a record of usage, to be used both in any review of the Management Plan and in organizing the scientific use of the Site.



Rothera Point Site of Special Scientific Interest (SSSI) in relation to Marguerite Bay and other nearby protected areas.



Rothera Point Site of Special Scientific Interest

Management Plan
for Site of Special Scientific Interest (SSSI) No. 19
LINNAEUS TERRACE, ASGAARD RANGE
VICTORIA LAND

1. Description of Values to be Protected

Linnaeus Terrace was originally designated in Recommendation XIII-8 (1985, SSSI No. 19) after a proposal by the United States of America on the grounds that the Area is one of the richest known localities for the cryptoendolithic communities that colonize the Beacon Sandstone. Exposed surfaces of the Beacon Sandstone are the habitat of cryptoendolithic microorganisms, which may colonize a zone of up to 10 millimetres deep below the surface of the rocks. The sandstones exhibit a range of biological and physical weathering forms, as well as trace fossils, and many of the formations are fragile and vulnerable to disturbance and destruction by trampling and sampling. Cryptoendolithic communities are known to develop over time periods in the order of tens of thousands of years, and damaged rock surfaces would be slow to recolonize. The excellent examples of these communities found at the site are the subject of the original detailed Antarctic cryptendolithic descriptions. As such, Linnaeus Terrace is considered a type locality with outstanding scientific values related to this ecosystem. These values, as well as the vulnerability of the site to disturbance and destruction, require that it receives long-term special protection.

2. Aims and objectives

Management at Linnaeus Terrace aims to:

- avoid degradation of, or substantial risk to, the values of the Area;
- prevent unnecessary human disturbance to the Area and protect the fragile rock formations from breakage;
- permit research on the cryptoendolithic communities while ensuring they are protected from over-sampling;
- permit visits for management purposes in support of the objectives of the management plan.

3. Management activities

- Durable wind direction indicators should be erected close to the designated helicopter landing site whenever it is anticipated there will be a number of landings at the Area in a given season. These should be replaced as needed and removed when no longer required.
- Brightly colored markers, which should be clearly visible from the air and pose no significant threat to the environment, shall be placed to mark the helicopter landing pad.
- Markers or structures erected within the Area for scientific or management purposes shall be maintained in good condition.
- Visits shall be made as necessary (no less than once every five years) to assess whether the Area continues to serve the purposes for which it was designated and to ensure management and maintenance measures are adequate.
- National Antarctic Programs operating in the region shall consult together with a view to ensuring these steps are carried out.

4. Period of designation

Designated under ATCM Measure XX-I for an indefinite period.

5. Maps and photographs

Map A: Linnaeus Terrace, Wright Valley, location image-map. Orthophotograph specifications:

Projection: Lambert conformal conic; Standard parallels: 1st-7918'00"S; 2nd-7642'00"S.
Central Meridian: 16230'00"E Latitude of Origin: 7801'16.211"S
Spheriod: WGS84; Positional accuracy of original orthophotograph at 1:10,000 is ca. 2m.
Photography USGS/DoSLI (SN7856) 22 November 1993.

Map B: Linnaeus Terrace, protected area orthophotograph. Orthophotograph specifications are the same as in Map A, except positional accuracy of original orthophotograph at 1:2,500 is ca. 0.5m.

Map C: Linnaeus Terrace, topographic map. Map specifications are the same as those for Map B. Contours are derived from the digital elevation model used to generate the orthophotograph in Map B.

Figure 1: Perspective view showing Linnaeus Terrace above the South Fork of Wright Valley and Don Juan Pond. The perspective is from an elevation of 7000m, 20 km out from the Area at a bearing of 65E.

Figure 2: Linnaeus Terrace, perspective view, showing the boundaries of the Area and the designated helicopter pad (16104'29"E, 7735'50"S, elevation 1610m). The perspective is from an elevation of 2000 m, 2300 m out from the Area at a bearing of 65E. Image source: Maps A and B.

Figure 3: Photograph illustrating some of the fragile rock formations and fossils found on Linnaeus Terrace.

6. Description of the Area

6(i) Geographical coordinates, boundary markers and natural features
Linnaeus Terrace (16105'00"E, 7735'50"S) is an elevated bench of weathered Beacon Sandstone approximately 1.5 km in length and 1 km in width. It is located at the east end of the Asgaard Range, 1.5 km north of Oliver Peak (16102'30"E, 7736'40"S) at an elevation of about 1600 m. The Area overlooks the South Fork of the Wright Valley, is about 4 km from Don Juan Pond and 10 km from the terminus of the Wright Upper Glacier (Map A and Figure 1). The boundaries of the Area and prominent features are shown in the accompanying maps and figures.

On the ground, the lower (northern) boundary of the Area is characterized by the presence of a predominantly sandstone outcrop of approximately 3 m in height which extends for much of the length of the terrace. The lower boundary of the Area is defined as the upper edge of this outcrop, and as straight lines adjoining the visible edges where the outcrop is covered by surface talus (Figure 2). The upper (southern) boundary of the Area is characterized by a line of sandstone outcrop of about 2-5 m in height, occurring between the elevations of 1660-1700 m about 70 above the general elevation of the terrace. The upper boundary of the Area is defined as the uppermost edge of this outcrop, and shall be considered a straight line between the visible edges where the outcrop is covered by surface talus (Map B, Figure 2). The west end of the Area is defined as where the terrace narrows and merges with a dolerite talus slope on the flank of the NW ridge of Oliver Peak. The boundary at the west dips steeply from where the upper outcrop disappears, following the border of the dolerite talus with the terrace sandstone down to the westernmost corner. The east boundary is defined as the 1615 m contour, which follows closely the edge of an outcrop which extends much of the width of the terrace. At the southernmost corner of the Area the terrace merges with the slopes into the valley to the east: from this point the boundary extends upward to the 1700 m contour, from where it follows the line of outcrop defining the south boundary (Map B, Figure 2).

Winter air temperature at Linnaeus Terrace ranges between -20C and -45C, while in January the daily mean is -5. Cryptoendolithic micoorganisms typically colonize porous Beacon sandstones with a 0.2 - 0.5 mm grain size, with an apparent preference for rocks stained tan or brown by Fe +3-containing oxyhydroxides. A silicified crust of about 1 mm thickness on many of the rocks probably facilitates colonization by stabilizing the surface and reducing wind erosion. Three of the five described cryptoendolithic microbial communities have been found on Linnaeus Terrace: the Lichen Dominated, Red-Gloeocapsa and Chroococcidiopsis Communities. Linnaeus Terrace is the type locality of the endemic green algal genus *Hemichloris* and of the endemic Xanthopycean algal species *Heterococcus endolithicus*. The Area is unusual in that so many different living and fossil endolithic communities are present within a small area. The main physical and biological features of these communities and their habitat are described in Friedmann, E.I. (ed) 1993 *Antarctic Microbiology*, Wiley-Liss, New York.

A small area (Map C) has been contaminated by release of the C(14) radioactive isotope. While the contamination poses no significant human or environmental threat, any samples gathered within this area are considered unsuitable for scientific work using C(14) techniques.

6(ii) Restricted zones within the Area
None.

6(iii) Structures within the Area
A number of rocks within the Area have small instruments installed into them for scientific purposes and should not be disturbed.

6(iv) Location of other Specially Protected Areas or Sites of Special Scientific Interests within close proximity of the Area
None.

7. Permit conditions

Permits may be issued only by appropriate national authorities as designated under Annex V, Article 7 of the Protocol on Environmental Protection to the Antarctic Treaty. Conditions for issuing a Permit to enter the Area are that:

- it is issued only for scientific study of the cryptoendolithic ecosystem, or for a compelling scientific or management purpose that cannot be served elsewhere;
- the actions permitted will not jeopardize the natural ecological system or scientific values of the Area;
- any management activities are in support of the objectives of the Management Plan;
- the actions permitted are in accordance with the Management Plan;
- the Permit, or an authorized copy, shall be carried within the Area;
- a Visit Report is supplied to the authority named in the Permit;
- any Permit issued shall be valid for a stated period.

7(i) Access to and movement within the Area
Access to the Area is permitted by foot or by helicopter. No special restrictions apply to the routes used to move to and from the Area. Helicopters shall land only at the designated site at the west end of the terrace (16104'29"E, 7735'50"S, elevation 1610 m: Maps B and C), except when specifically authorized by Permit otherwise for a compelling scientific or management purpose. Use of helicopter smoke bombs within the Area is discouraged. When transporting permitted visitors, pilots, air crew, or passengers en route elsewhere on helicopters are prohibited from moving on foot beyond the immediate vicinity of the designated landing and camping sites unless specifically authorized by a Permit. Land vehicles are prohibited within the area.

Pedestrian traffic should be kept to the minimum necessary consistent with the objectives of any permitted activities. Visitors should avoid breaking fragile rock formations.

7(ii) Activities that are or may be conducted in the Area, including restrictions on time or place
- Scientific research which will not jeopardize the ecosystem of the Area;
- Essential management activities, including monitoring.

7(iii) Installation, modification or removal of structures
No structures, except boundary markers and signs, are to be erected within the Area except as specified in a Permit. All scientific equipment installed in the Area must be approved by Permit and clearly identified by country, name of the principal investigator and year of installation. All such items should be made of materials that pose minimal risk of contamination of the Area. Removal of specific equipment for which the Permit has expired shall be the responsibility of the authority which granted the original Permit.

7(iv) Location of field camps
Camping is permitted within the Area only at the designated site in the immediate vicinity of the helicopter landing pad (Maps B and C).

7(v) Restrictions on materials and organisms which can be brought into the Area
To avoid compromising the microbial ecosystem for which this site is protected, no living animals, plant material or microorganisms shall be deliberately introduced into the Area and precautions should be taken against accidental introductions. No herbicides or pesticides shall be brought into the Area. Any other chemicals, including radio-nuclides or stable isotopes, which may be introduced for scientific or management purposes specified in the Permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted. Food, fuel, and other materials are not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All such materials introduced shall be for a stated period only, shall be removed at or before the conclusion of that stated period, and shall be stored and handled so that risk of their introduction into the environment is minimized.

7(vi) Taking or harmful interference with native flora or fauna
This is prohibited, except in accordance with a Permit. Where animal taking or harmful interference is involved this should be in accordance with the SCAR Code of Conduct for the Use of Animals for Scientific Purposes in Antarctica, as a minimum standard.

7(vii) Collection or removal of anything not brought into the Area by the Permit holder
Material may be collected or removed from the Area only in accordance with a Permit. Material of human origin, not brought into the Area by the Permit Holder, but which is likely to compromise the values of the Area may be removed from any part of the Area.

7(viii) Disposal of waste
All wastes, including all human wastes, must be removed from the Area.

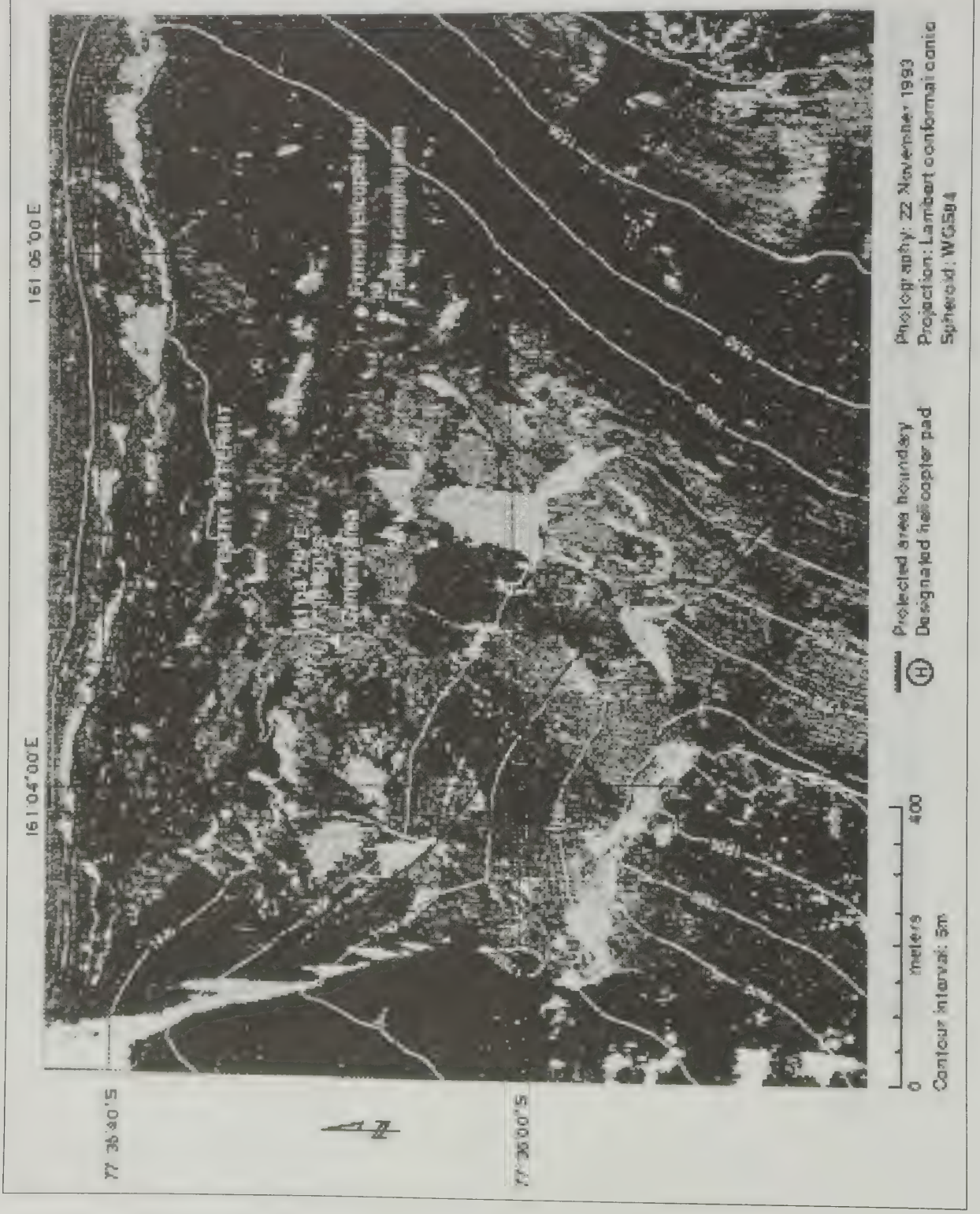
7(ix) Measures that are necessary to ensure that the aims and objectives of the Management Plan can continue to be met
Permits may be granted to enter the Area to carry out biological monitoring and site inspection activities, which may involve the collection of small amounts of biological material for analysis or audit, or to carry out protective measures.

7(x) Requirements for reports
Parties should ensure that the principal holder of each permit issued submit to the appropriate authority a report describing the activities undertaken. Such report should include, as appropriate, the information identified in the Visit Report form suggested by SCAR. Parties should provide summary descriptions of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow evaluation of the effectiveness of the management plan. Parties should, wherever possible, deposit originals of copies of such original reports in a publicly accessible archive to maintain a record of usage, to be used both in any review of the management plan and in organizing the scientific use of the Area.

Map A - Linnaeus Terrace, Wright Valley, location image-map



Map B - Linnaeus Terrace, Site of Special Scientific Interest No. 19: site orthophotograph



Map C - Linnaeus Terrace, Site of Special Scientific Interest No. 19: topographic map

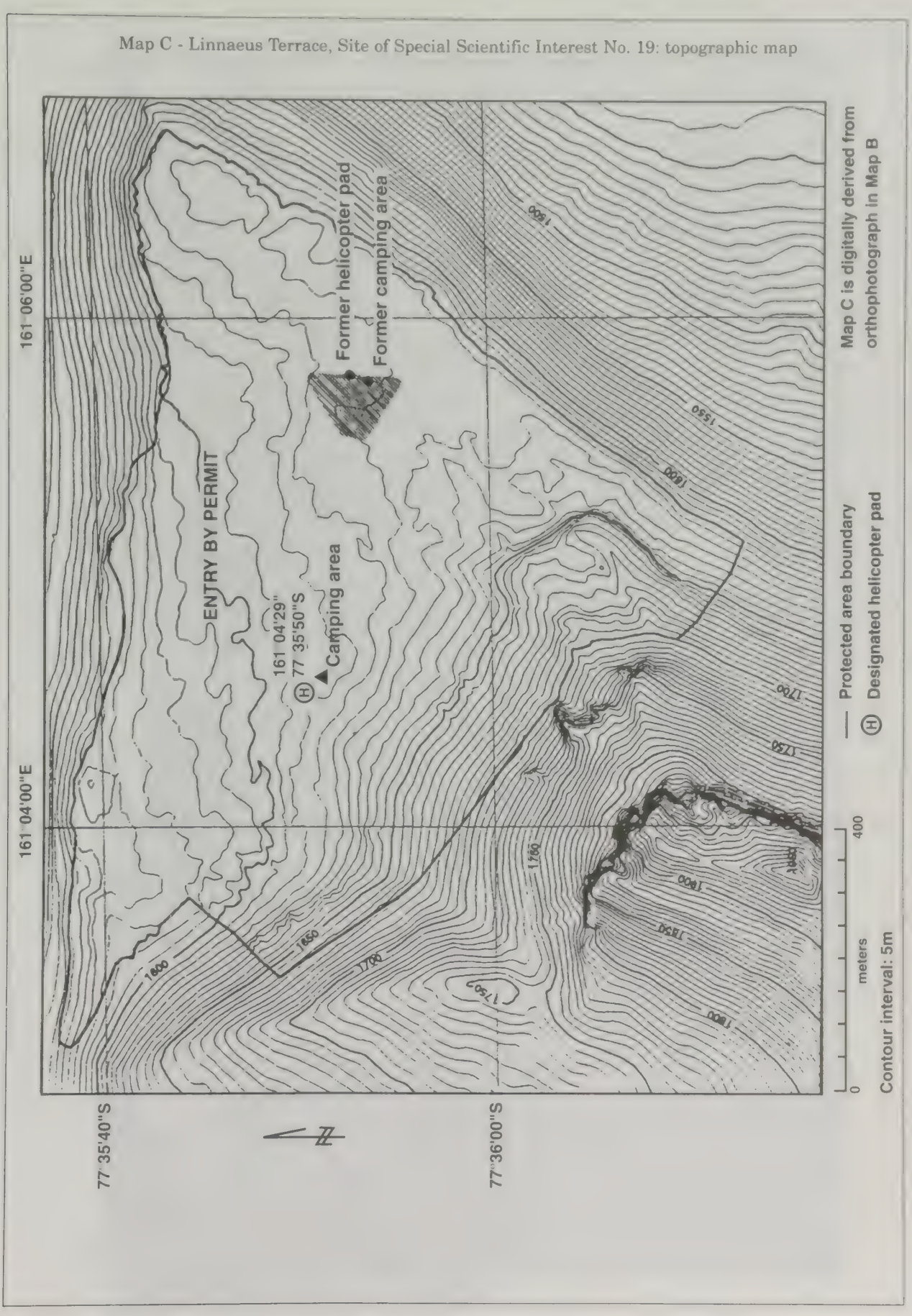


Figure 1 – Wright Valley, perspective view

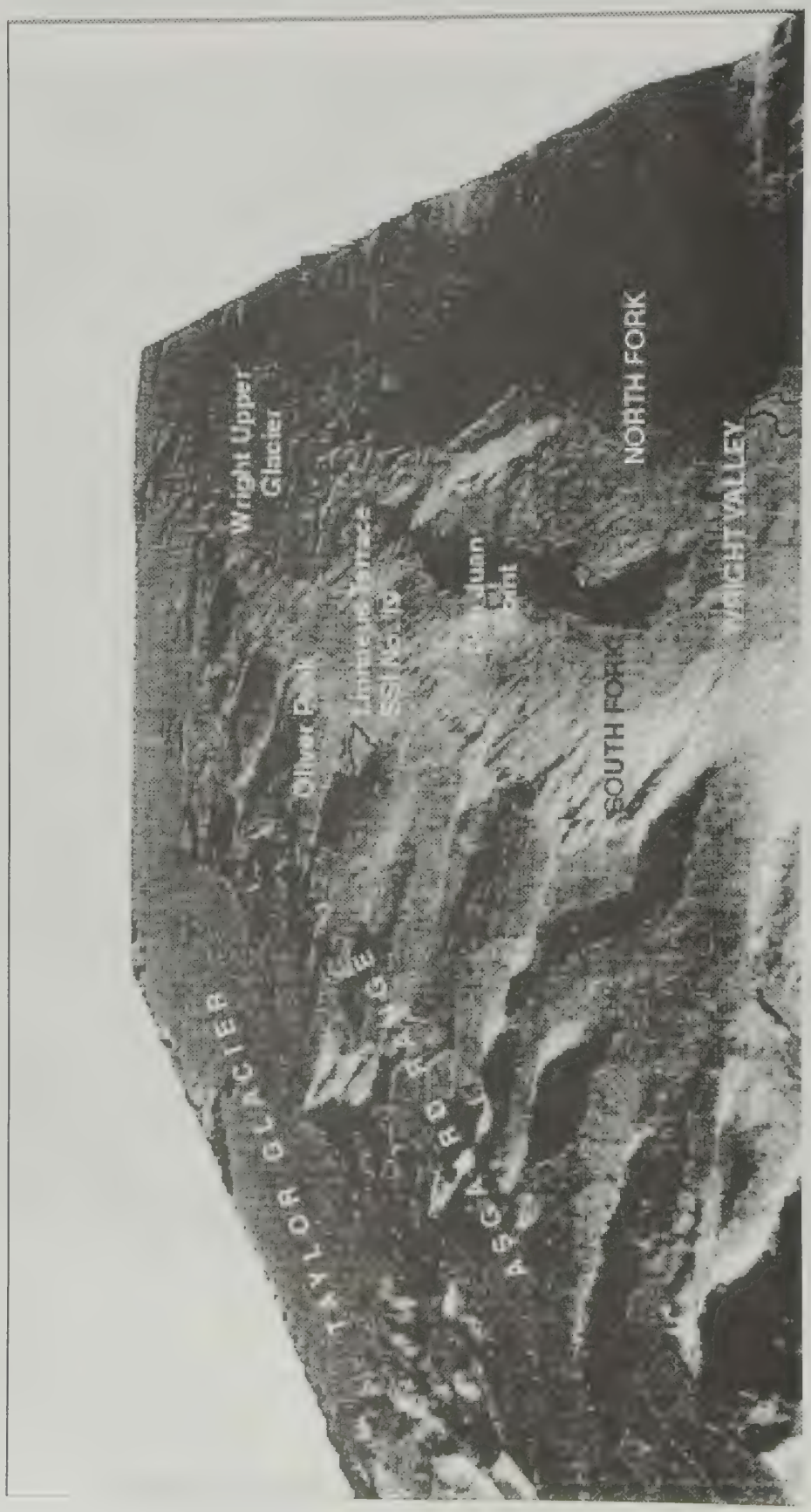
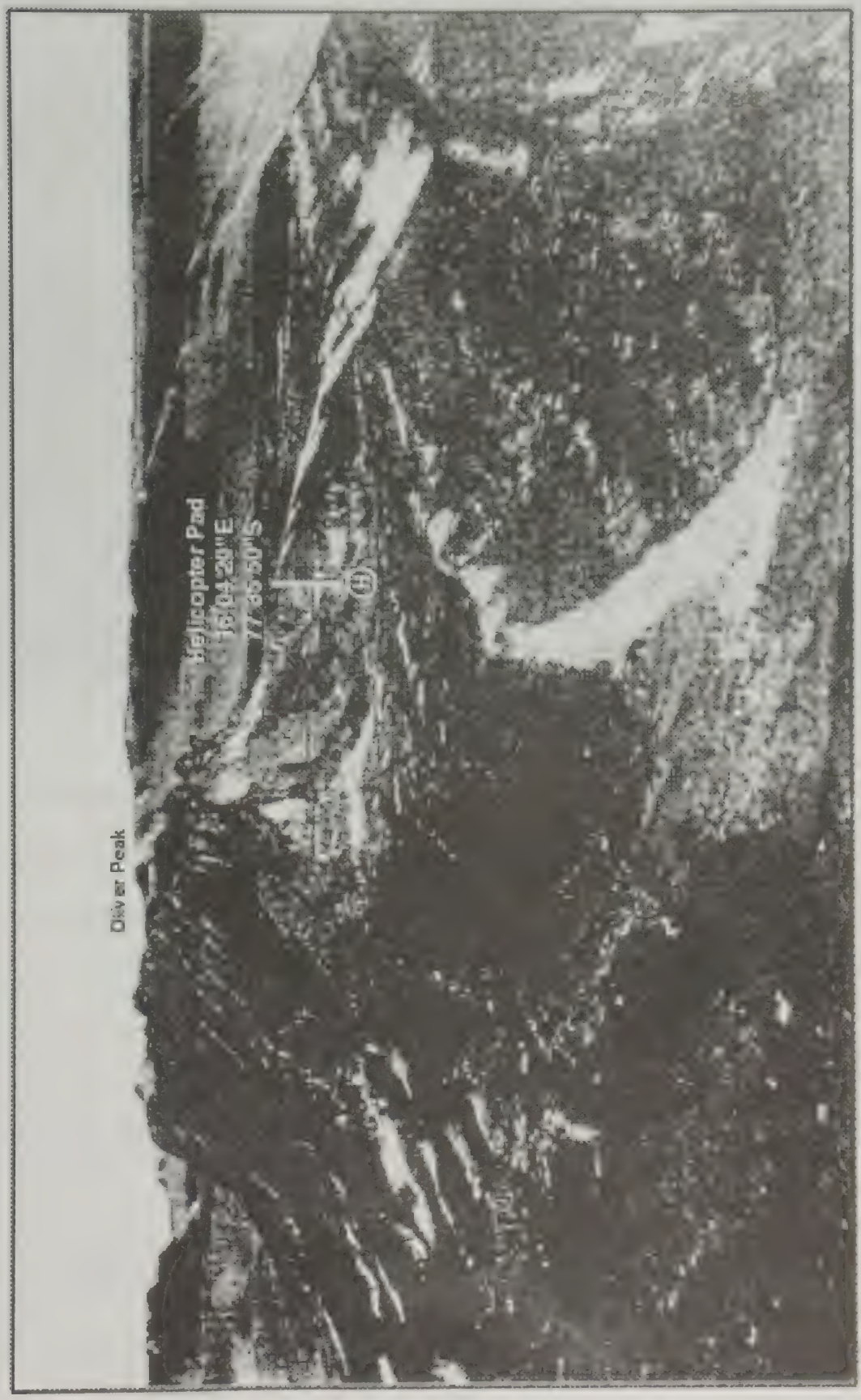
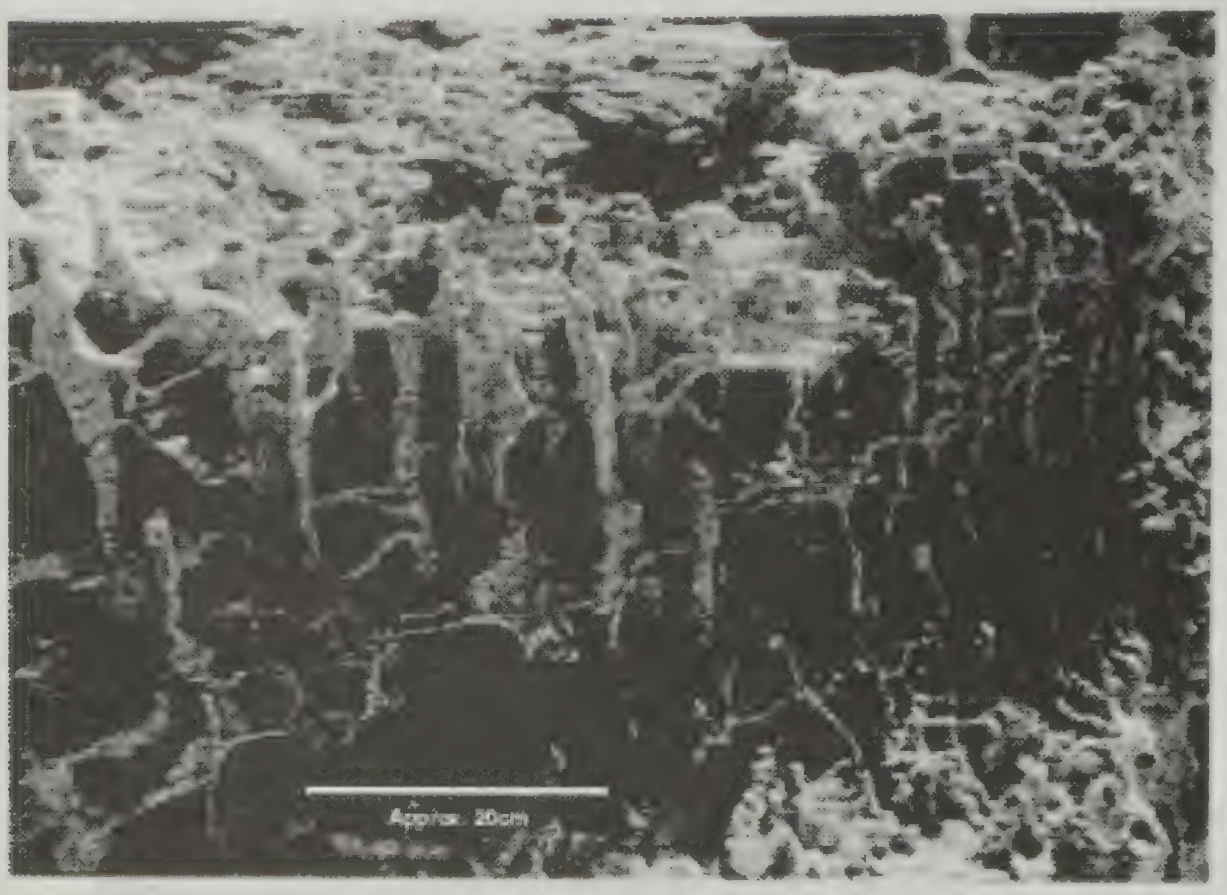


Figure 2 – Linnaeus Terrace, perspective view




Approx. 20cm

Measures Approved or Recommended under Article IX in Furtherance of the Principles and Objectives of the Antarctic Treaty of 1 December 1959, Christchurch (New Zealand), 1997

Done at Christchurch 30 May 1997

Entered into force (not in force)

Depository: United States of America

Primary source citation: Copy of text provided by the U.S. Department of State

MEASURE 1 (1997)

Antarctic Protected Areas System:
Revised Description and Management Plan for
Specially Protected Area

SPA 5 Beaufort Island (Annex A)

The Representatives,

Recalling Recommendations XV-8 and XV-9/VIII-3

Noting that revised and new Area Descriptions and Proposed Management Plans have been endorsed by the Scientific Committee on Antarctic Research (SCAR);

Noting also that the format of the revised and new Area Descriptions and proposed Management Plans accord with Article 5 of Annex V of the Protocol on Environmental Protection to the Antarctic Treaty adopted under recommendation XVI-10;

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

For Specially Protected Area No. 5 Beaufort Island (Annex A)

1. That the Description inserted in Annex B, Specially Protected Areas, of the Agreed Measures for the Conservation of Antarctic Fauna and Flora shall be deleted.

2. That the Description and Management Plan of the Specially Protected Area at Annex A shall be inserted in Annex B, Specially Protected Areas, of the Agreed Measures for the Conservation of Antarctic Fauna and Flora.

Management Plan for Specially Protected Area (SPA) No. 5

BEAUFORT ISLAND, McMURDO SOUND, ROSS SEA

1. Description of Values to be Protected

Beaufort Island was originally designated in Recommendation IV-5 (1966, SPA No. 5) after a proposal by New Zealand on the grounds that it "contains substantial and varied avifauna, that it is one of the most important breeding grounds in the region, and that it should be protected to preserve the natural ecological system as a reference area". The Area has been set aside primarily to protect the site's ecological values and these reasons for long-term special protection still apply.

The island comprises a variety of terrain and habitats: gently sloping ice-free ground with summer ponds and small meltwater streams draining to the coast; moderately sloping ice fields covering much of the west side of the island; and steep, rugged cliffs on the eastern slopes. Recent investigations indicate the avifauna is not as varied as first thought, but there exists a large Adélie penguin (*Pygoscelis adeliae*) colony, a small breeding colony of Emperor penguins (*Aptenodytes forsteri*), and several breeding colonies of South polar skua (*Catharacta maccormicki*). The boundaries of the Area, which previously excluded the Emperor colony, have been extended to include fast-ice occupied by breeding birds.

Site visits in January 1995 and 1997 discovered and described a significant area of vegetation previously unrecorded on an ice-cored moraine bench of up to 50 m wide and 5–7 metres above the beach on the north of the island. The vegetation is exceptional both in its quantity and quality, and is the most extensive, continuous area of mosses yet known for the McMurdo Sound region. Although the area is extensive (approximately 2.5 ha), the moss community is dominated by a single species, *Bryum argenteum*: the essentially monospecific character of the site is also unique. The site enjoys warm summer temperatures because of its northerly aspect and shelter from southerly winds by high ice cliffs. The local microclimate, stability of the substrate and supply of water from the nearby ice-cliffs and snow banks are favourable for vegetation growth. As a result there is also a diverse community of algae, and while a detailed algal survey has not yet been undertaken, *Prasiola crispa* is particularly abundant throughout the site, together with a number of unicellular chlorophytes and xanthophytes (including *Botrydiopsis* and *Pseudococcomyxa*), and cyanobacteria (particularly scillatorians) mixed with the *Prasiola*. Green snow algae, a mixture of *Chloromonas* and *Klebsormidium*, are present as well as the red snow algae *Chlamydomonas* sp., *Chloromonas* sp., and *Chlamydomonas nivalis*. This represents one of the most southerly locations where red snow algae have been observed. The exceptional plant communities at this site are fragile and vulnerable to disturbance and destruction by trampling, sampling and/or through foreign introductions. Conservation of the ecological and scientific values of this community are important reasons for special protection at Beaufort Island.As an isolated island difficult of access, the site is known to have been visited only infrequently. Beaufort Island has not been comprehensively studied or documented but is largely undisturbed by direct human activity. In particular, Beaufort Island has been exposed to fewer opportunities for direct exotic biological introductions than many other sites in the Ross Sea. The ecological, scientific and aesthetic values derived from the isolation and relatively low level of human impact are important reasons for special protection at Beaufort Island.

2. Aims and Objectives

Management at Beaufort Island aims to:

- avoid degradation of, or substantial risk to, the values of the Area by preventing unnecessary human disturbance to the Area;
- preserve the natural ecosystem as a reference area largely undisturbed by direct human activities;
- allow scientific research on the natural ecosystems, plant communities, avifauna and soils in the Area provided it is for compelling reasons which cannot be served elsewhere;
- minimise human disturbance to plant communities by preventing unnecessary sampling;
- minimise the possibility of introduction of alien plants, animals and microbes to the Area;
- allow visits for management purposes in support of the aims of the management plan.

3. Management Activities

The following management activities are to be undertaken to protect the values of the Area:

- Markers, signs or structures erected within the Area for scientific or management purposes shall be secured and maintained in good condition, and removed when no longer necessary.
- Visits shall be made as necessary to assess whether the Area continues to serve the purposes for which it was designated and to ensure management and maintenance measures are adequate.
- National Antarctic Programmes operating in the region shall consult together with a view to ensuring these steps are carried out.

4. Period of Designation

Designated for an indefinite period.

5. Maps and Photographs

Map A: Beaufort Island regional topographic map. The map is derived from the orthophotograph in Map B, using Map B specifications. Inset: McMurdo Sound, showing Ross Island and the location of McMurdo Station (US) and Scott Base (NZ). The nearest protected areas are SSSI-10 (Caughley Beach) and SPA-20 (New College Valley) at Cape Bird, and SSSI-1 (Cape Royds).

Map B: Beaufort Island regional orthophotograph.
Orthophotograph specifications:

Projection: Lambert conformal conic; Standard parallels: 1st 76° 40′ 00″S; 2nd 79° 20′ 00″S; Central Meridian: 167° 00′ 00″ E; Latitude of Origin: 78° 01′ 16.211″ S.
Spheroid: WGS84. The original orthophotograph was prepared at 1:5000 with a positional accuracy of ±2.5 m (horizontal and vertical) with an on-ground pixel resolution of 1 m. Photography: USGS/DoSLI (SN7850) 22 November 1993.

Map C: North Beaufort Island site orthophotograph. Specifications are the same as in Map B. The site of rich vegetation is indicated by hachures. The precise area of fast-ice occupied by breeding Emperor penguins is subject to variation both seasonally and inter-annually.

Map D: South Beaufort Island site orthophotograph. Specifications are the same as in Map B.

Figure 1: Perspective view of Beaufort Island from an elevation of 225 m, 900 m out from the preferred Helicopter Pad at an azimuth of 300° W.

6. Description of the Area

6(i) Geographical coordinates, boundary markers and natural features

The designated Area encompasses the whole of Beaufort Island (76°58′S, 167°00′E Map A) above the mean high water mark, and includes adjacent fast-ice occupied by breeding Emperor penguins. The 7 km by 3.2 km island rises to 771 m at Paton Peak. The west side of the island is predominantly an ice field with ice cliffs of about 20 m on the coast, while the east and south sides of the island are largely ice-free, with steep and inaccessible cliffs rising straight from the sea. In view of the isolation of Beaufort Island and the current low levels of shipping activity in the region, boundary markers and signs have not been installed to mark the Area: the need for marking should be re-evaluated at each management plan review.

Beaufort Island is one of a series of late Tertiary volcanic vents that developed along a line of weakness in the Ross Sea floor. The geology is typical of an eroded, sub-aerially produced basaltic complex, with lava flows and explosion breccias and tuffs evident. Many of the volcanic rocks have been intruded by a series of late stage basaltic dikes, and there is evidence of layered ash-fall tuffs and welded spatter flows from local subsidiary cinder and spatter cones. Cadwalader Beach comprises a beach foreland and cuspate spit, backed by steep basaltic cliffs and several talus cones. A series of beach ridges, which are generally occupied by the breeding penguins, have trapped

meltwater ponds and mark the growth of the beach face away from the cliffs with time. A series of raised beaches is evident at the northeastern end of the island, some with evidence (quills and guano) of former and apparently substantial penguin colonies. Sub-tidal (abrasion) platforms and massive boulders are found below the highly weathered eastern and southern cliffs. An AdOlie colony of 46,000 pair (1987 count) occupies the flat area at Cadwalader Beach (Map D). Above the steep cliffs that rise behind the colony, a population of skuas (numbers unknown) nest on more gentle ice-free slopes at the edge of the permanent ice field on the west flank of the island. This ice field is punctuated mid-way by a 2 km line of rocky outcrops at an elevation of approximately 200 m. In the north the ice field broadens into an extensive flat area of less than 50 m elevation, NE of which extends an ice-free beach about 1000 m in length and 50 m wide (Map C). In January 1995 a newly-established, possibly transitory, colony of AdOlie penguins (comprising 2 pairs with 3 chicks and a approximately 10-15 non-breeders) occupied the west end of this beach. Above the beach, a raised ice-cored moraine terrace (5 20 m elevation, ranging from 2-3 metres wide over most of its length but broadening to 20-50 metres at its eastern end) extends for 550 m before rising more steeply toward the unstable basaltic cliffs which persist around the entire eastern side of the island. At least three sub-fossil penguin colony deposits have been identified within the moraine terrace, each layer vertically separated by around 50 100 cm of gravels and sand, suggesting this part of the island had been occupied by a sizable breeding penguin colony in the recent past. The deposits may be useful for determining the age of former penguin colonies in the region.

A population of approximately 100 skuas (1995 count) breeds on the terrace and ice-free slopes leading toward the cliffs. The proportion of breeders to non-breeders in this population is not known, but approximately 25 and 50 chicks were counted in January 1995 and 1997 respectively.

On the fast-ice adjacent to the northern coastal reaches, a small colony of breeding Emperor penguins (1787 pairs at 1976 count; 179 pairs at 1983 count, 1355 adults at October 1994 count) is present annually between the months of approximately April to January. The size of the colony is limited by the areal extent and condition of the fast-ice, which affects the availability of breeding sites in the lee of the northern slopes of Beaufort Island. The precise location of the colony varies from year to year and the colony moves within a breeding season, but the general area of occupation is indicated on Map C. The ice-free moraine terrace on the north end of the island (Map C) also supports the richest growth of vegetation recorded on Beaufort Island. This vegetation is exceptional both in quantity and quality, and is the most extensive, continuous area of mosses yet known for the McMurdo Sound region. The site enjoys warm summer temperatures (an air temperature +13 C was recorded on 18 January 1997) because of its northerly aspect and shelter from southerly winds by a 20 m high semi-circular ice cliff. The local microclimate, stability of the ground surface and supply of water from the nearby ice-cliffs and snow banks are favourable for vegetation growth. Initially the water forms a diffuse flush but becomes progressively entrained into rivulets that have eroded narrow valleys in the edge of the terrace. The moss community is extensive (approximately 2.5 ha), with much of the site showing 100% ground cover, dominated by a single species, *Bryum argenteum*. One specimen of another species, *Pottia heimii*, was found after an extensive search: the essentially monospecific character of the site is also unique. The *Bryum* occurs in scattered patches at the upper (southern) margin of the bench, adjacent to the annual drift snow at the base of the ice cliff, and more continuous mats (hummocks) occur in the middle of the bench and in areas where spreading water drainage occurs, especially at the eastern end. In the upper (southern) part of the area the *Bryum* is intermixed with *Nostoc* colonies (cyanobacterium). At lower and more northerly sites in areas of high water flow the moss may be overgrown with a brown coloured mixed cyanobacterial community, particularly in areas prone to flooding, cryoturbic disturbance and, possibly, skua activity. *Bryum argenteum* produces dehiscent shoot tips which disperse the plants down stream. Evidence of this dispersal was commonly seen with B. argenteum sometimes occurring as small, and probably ephemeral, communities on the beach below the terrace. The moss community is known to support significant populations of mites, but a detailed survey of invertebrates on Beaufort Island has yet to be undertaken. The vegetation at Beaufort Island is comparable to the upper, wetter parts of the flush at Canada Glacier (SSSI-12), Taylor Valley, Victoria Land. The Canada Glacier flush has a common, second species, *Pottia heimii*, that grows in drier areas but this was almost completely absent at Beaufort Island. The reason for this is unknown, but could be due to substrate differences, the presence of numerous skuas occupying the drier areas at Beaufort Island, high nutrient levels in the melt water at Beaufort Island, or limited dispersal and colonisation opportunities. At Botany Bay (ASPA-XYZ), Granite Harbour, Victoria Land a warmer site than at Canada Glacier but at a similar latitude to Beaufort Island the wetter areas are occupied by the moss Ceratodon purpureus or Bryum argenteum, so that there may be a sequence from wet to dry of C. purpureus - B. argenteum - P heimii. While there is no understanding as to why C. purpureus is absent at Beaufort Island it is likely that limited dispersal and colonisation opportunities, as well as water nutrient status, may be important.

There is also a diverse community of algae, and while a detailed algal survey has not yet been undertaken, Prasiola crispa is particularly abundant throughout the site, reflecting the high nutrient status and abundance of melt

water. A number of unicellular chlorophytes and xanthophytes (including Botrydiopsis and Pseudococcomyxa) and cyanobacteria (particularly scillatorians) were found mixed with the Prasiola. Green snow algae, noticeable as a green band at the lower levels of snow banks above the beach and below the ice cliffs, contained a mixture of Chloromonas and Klebsormidium. The snow and ice cliffs forming the upper edge of the beach also contain a pinkish-brown deposit, consisting largely of fine silty material as well as the red snow algae Chlamydomonas sp., Chloromonas sp., and Chlamydomonas nivalis. This represents one of the most southerly locations where red snow algae have been observed.

During a NZUS visit in January 1995 abandoned equipment was removed from among the Adélie colony at Cadwalader Beach. No other human impact was visually evident in 1995.

6(ii) Restricted zones within the Area
None.

6(iii) Structures within and near the Area
The only structure known to exist on the island is a signpost on a prominent rock in the Adélie colony at Cadwalader Beach (Map D). The sign, erected in 1959–60, bears the names and home-towns of seamen and the Captain of the HMNZS Endeavour: the sign is set in concrete and was in good condition in January 1995. The sign is of potential historic value and should remain in situ unless there are compelling reasons for its removal, which should be kept under review.

An astronomical survey station is recorded on a map of the island compiled in 1960, but it is unknown whether any associated permanent marker exists. The station is recorded as located at the south end of the main island ridgeline divide at an altitude of 549 m (Map A).

6(iv) Location of other protected areas within close proximity of the Area
The nearest protected areas to Beaufort Island are Caughley Beach (SSSI-10) and New College Valley (SPA-20) located 35 km to the south at Cape Bird, Ross Island. Cape Royds (SSSI-1) is a further 35 km to the south (Inset Map A).

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a Permit issued by appropriate national authorities. Conditions for issuing a Permit to enter the Area are that:

- it is issued only for compelling scientific reasons that cannot be served elsewhere, or for essential management purposes consistent with plan objectives such as inspection or review;
- the actions permitted will not jeopardise the ecological or scientific values of the Area;
- any management activities are in support of the aims of the Management Plan;
- the actions permitted are in accordance with the Management Plan;
- the Permit, or an authorized copy, shall be carried within the Area;
- a visit report shall be supplied to the authority named in the Permit;
- permits shall be issued for a stated period.

7(i) Access to and movement within the Area
Land vehicles are prohibited within the Area and access shall be by small boat or by aircraft. Aircraft should land on the island only at the designated site (166° 58' 20" E, 76° 55' 50" S; Map A) on the large flat toe of ice on the north end of the island. Should snow conditions at the designated landing site at the time of visit militate against a safe aircraft landing, a suitable mid- to late-season alternative to the designated landing site may be found at the nominated northern camp site at the western end of northern beach on Beaufort Island. It is preferred that aircraft approach and depart from the designated landing site from the south or west (Map A, Figure 1). When it is found necessary to use the alternative site at the northern beach campsite, practical considerations may dictate a northern approach: when this is the case aircraft shall avoid overflight of the area east of this site indicated on Maps A–C and Figure 1. Use of smoke grenades when landing within the Area is prohibited unless absolutely necessary for safety, and all grenades should be retrieved. There are no special restrictions on where access can be gained to the island by small boat. Pilots, air or boat crew, or other people on aircraft or boats, are prohibited from moving on foot beyond the immediate vicinity of the landing site unless specifically authorised by a Permit.

Overflight of bird breeding areas lower than 750 m (or 2500 ft) is normally prohibited: the areas where these special restrictions apply are shown on Maps A–D and Figure 1. When required for essential scientific or manage-

ment purposes, transient overflight down to a minimum altitude of 300 m (1000 ft) may be allowed over these areas: conduct of such overflights must be specifically authorised by Permit.

Visitors should avoid unnecessary disturbance to birds, or walking on visible vegetation. Pedestrian traffic should be kept to the minimum consistent with the objectives of any permitted activities and every reasonable effort should be made to minimise effects.

7(ii) Activities that are or may be conducted in the Area, including restrictions on time or place

- Scientific research that will not jeopardise the ecosystem of the Area and which cannot be served elsewhere;
- Essential management activities, including monitoring.

7(iii) Installation, modification or removal of structures

No structures are to be erected within the Area except as specified in a Permit. All scientific equipment installed in the Area must be approved by Permit and clearly identified by country, name of the principal investigator and year of installation. All such items should be made of materials that pose minimal risk of contamination of the Area. Removal of specific equipment for which the Permit has expired shall be a condition of the Permit.

7(iv) Location of field camps

Camping is permitted only at two designated sites (Maps A–D). The north camping site is located on the flat area north of the designated landing site, on a more sheltered location at the NW end of the beach, 200 m from where several pair of Adélie penguins and skuas nest (if present). The second site is located on the snow 100 m from the northern edge of the large Adélie colony at Cadwalader Beach.

7(v) Restrictions on materials and organisms which can be brought into the Area

No living animals, plant material or microorganisms shall be deliberately introduced into the Area and the precautions listed in 7(ix) below shall be taken against accidental introductions. No herbicides or pesticides shall be brought into the Area. Any other chemicals, including radio-nuclides or stable isotopes, which may be introduced for scientific or management purposes specified in the Permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted. Fuel is not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All materials introduced shall be for a stated period only, shall be removed at or before the conclusion of that stated period, and shall be stored and handled so that risk of their introduction into the environment is minimised.

7(vi) Taking or harmful interference with native flora or fauna

This is prohibited, except in accordance with a Permit. Where animal taking or harmful interference is involved this should, as a minimum standard, be in accordance with the SCAR Code of Conduct for the Use of Animals for Scientific Purposes in Antarctica.

7(vii) Collection or removal of anything not brought into the Area by the Permit holder

Material may be collected or removed from the Area only in accordance with a Permit and should be limited to the minimum necessary to meet scientific or management needs. Material of human origin likely to compromise the values of the Area, which was not brought into the Area by the Permit Holder or otherwise authorised, may be removed unless the impact of removal is likely to be greater than leaving the material *in situ* : if this is the case the appropriate authority should be notified.

7(viii) Disposal of waste

All wastes, including all human wastes, shall be removed from the Area.

7(ix) Measures that are necessary to ensure that the aims and objectives of the Management Plan can continue to be met

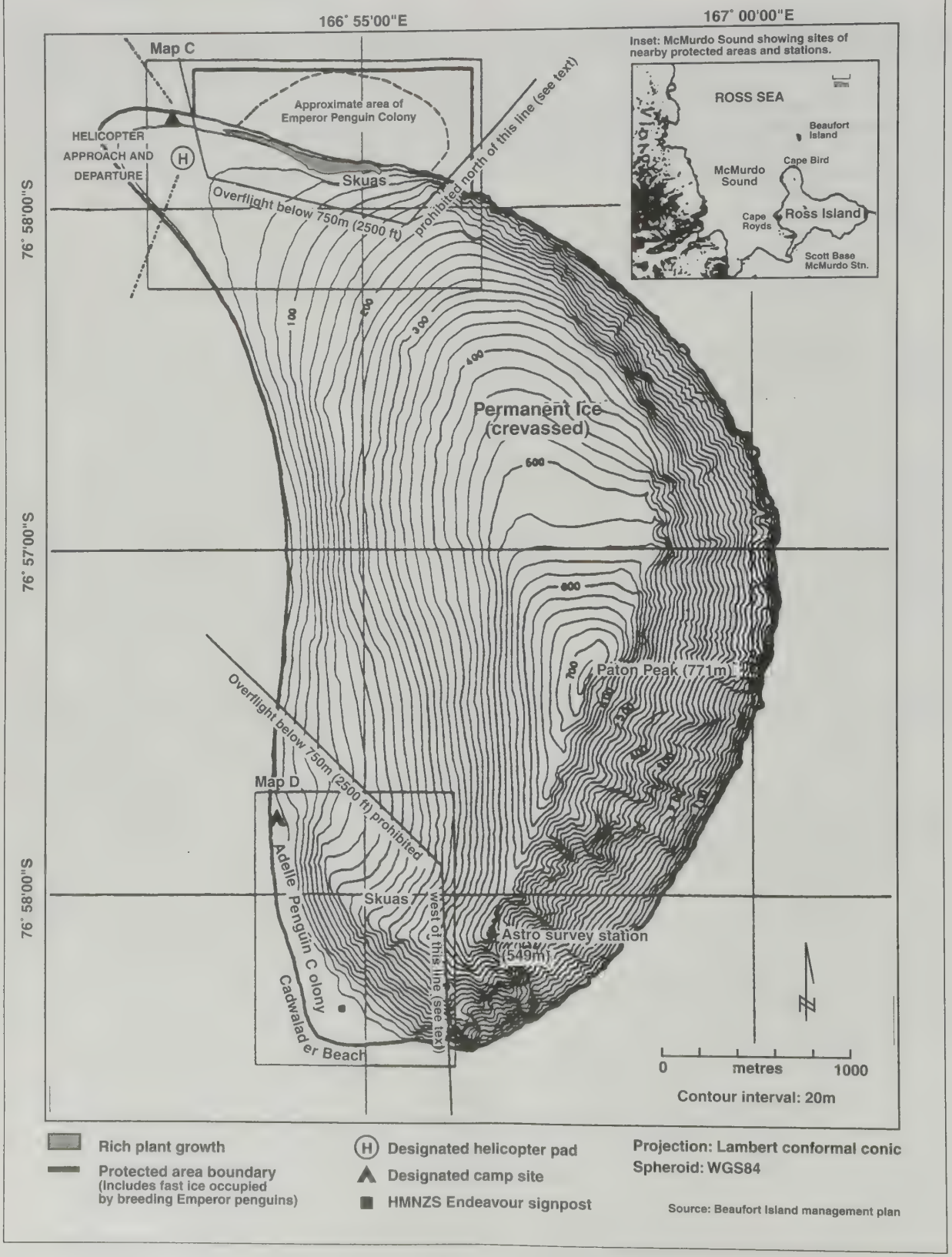
1. Permits may be granted to enter the Area to carry out biological monitoring and site inspection activities, which may involve the collection of small samples for analysis or review, or for protective measures.
2. Any specific sites of long-term monitoring shall be appropriately marked.
3. To help maintain the ecological and scientific values of the isolation and historically low level of human impact at Beaufort Island visitors shall take special precautions against introductions. Of particular concern are microbial or vegetation introductions sourced from soils at other Antarctic sites, including stations, or from regions outside Antarctica. Visitors shall take the following measures to minimise the risk of introductions:
4. Any sampling equipment or markers brought into the Area shall be sterilised and, to the maximum extent practicable, maintained in a sterile condition before being used within the Area. To the maximum extent practicable, footwear and other equipment used or brought into the Area (including backpacks or carry-bags) shall be thoroughly cleaned or sterilised and maintained in this condition before entering the Area;

5. Sterilisation should be by an acceptable method, such as by UV light, autoclave or by washing exposed surfaces in 70% ethanol solution in water.

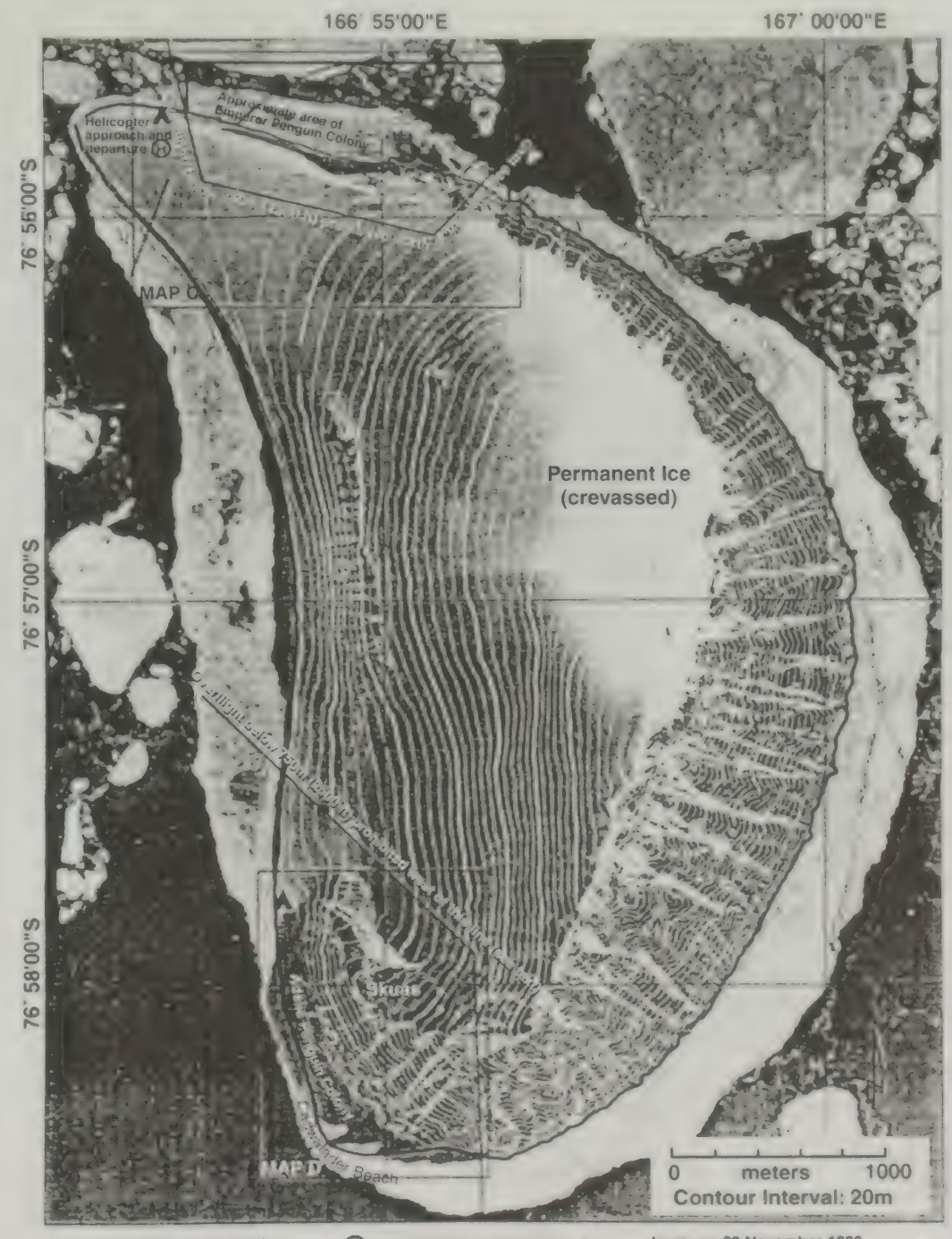
7(x) Requirements for reports

Parties should ensure that the principal holder for each permit issued submit to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, which should be in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should, wherever possible, deposit originals or copies of such original reports in a publicly accessible archive tomaintain a record of usage, to be used both in any review of the management plan and in organising the scientific use of the Area.

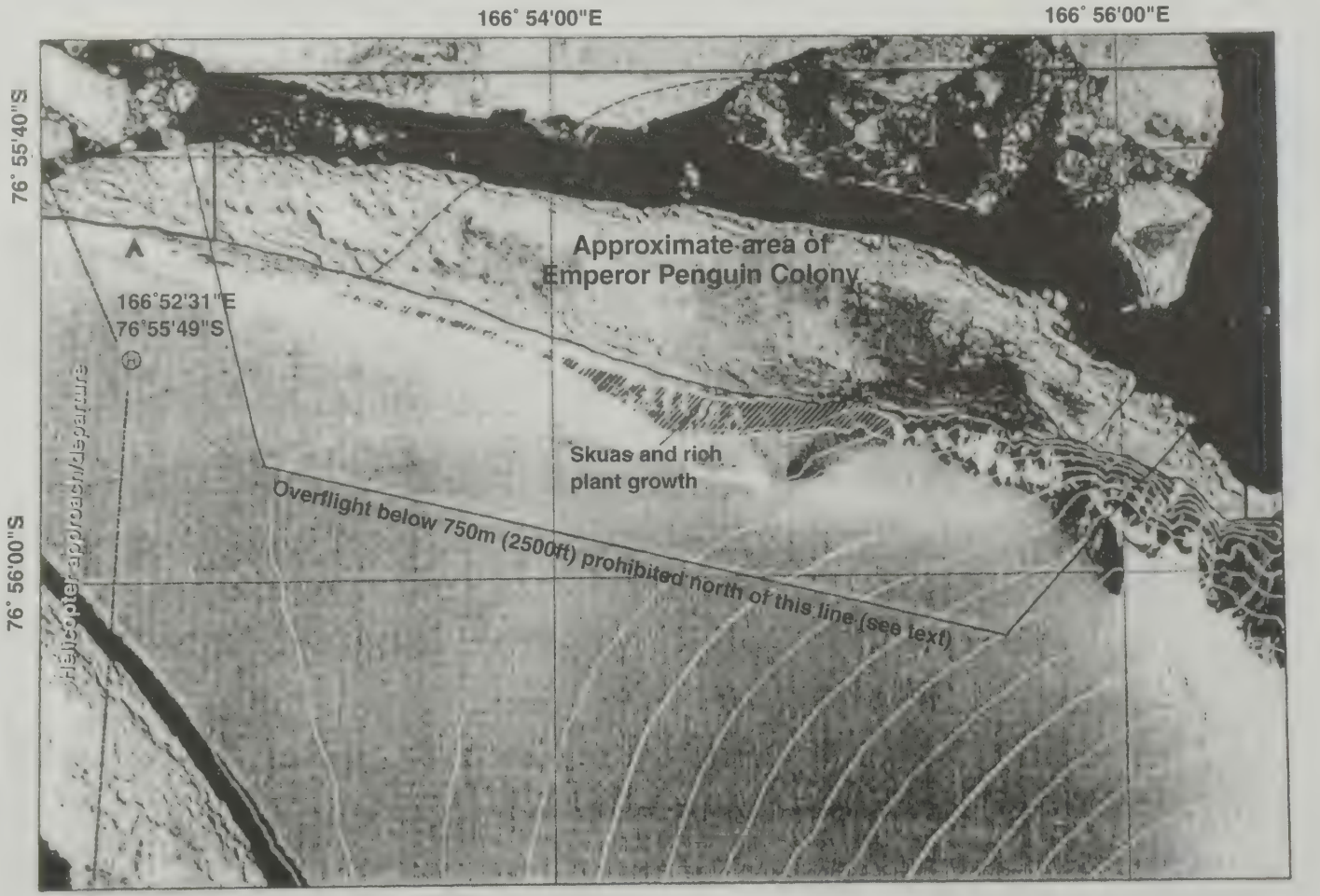
Map A Beaufort Island, Specially Protected Area Area No. 5, topographic map



Map B Beaufort Island, Specially Protected Area No. 5, regional orthophotograph



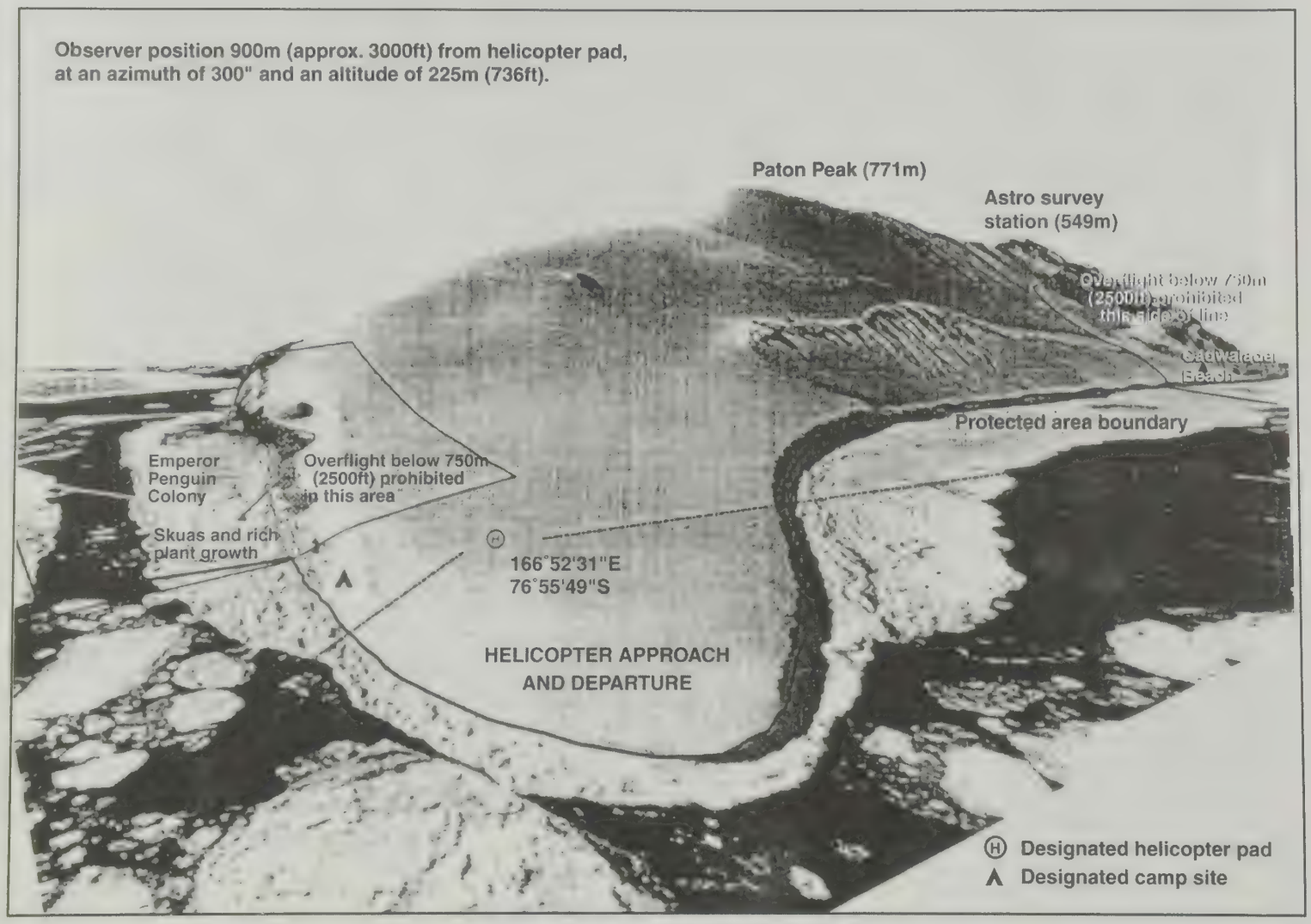
Map C North Beaufort Island, Specially Protected Area No. 5, site orthophotograph



Map D South Beaufort Island, Specially Protected Area No. 5, site orthophotograph



Figure 1 Beaufort Island, perspective view



Measure 2 (1997)

Antarctic Protected Areas System:
Management Plans for
Specially Protected Areas

Number 25: Cape Evans Historic Site and its environs (Annex A)
Number 26: Lewis Bay Tomb (Annex B)

The Representatives,

Recalling Recommendations XV-8 and XV-9;

Noting that Management Plans for the above Areas have been endorsed by the Scientific Committee on Antarctic Research (SCAR);

Noting also that the format of the Management Plans accord with Article 5 of Annex V of the Protocol on Environmental Protection to the Antarctic Treaty adopted under recommendation XVI-10;

Recognising that both these Areas have outstanding historic and commemorative significance which require long-term protection to ensure that their values are maintained and to avoid undue human disturbance;

Agreeing that pending entry into force of Annex V, proposals to designate and adopt management plans for the protection of historic or commemorative values should be viewed as proposals for the designation of Specially Protected Areas (SPAs) in accordance with the Agreed Measures for the Conservation of Antarctic Flora and Fauna;

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

> That the Management Plans for the Cape Evans Historic Site and its environs (SPA No. 25) and the Lewis Bay Tomb (SPA No. 26) annexed to this Measure be adopted.

Management Plan for Specially Protected Area (SPA) No. 25

FOR HISTORIC SITES NO. 16 AND 17
(containing the historic *Terra Nova* hut of Captain R F Scott and its precincts)
CAPE EVANS, ROSS ISLAND
(77 degrees 38′ 10″ S, 166 degrees 25′ 04″ E)

1. Description of Values to be Protected

This area was originally listed as Historic Sites 16 and 17 in Recommendation VII-9. The Terra Nova hut (Historic Site No. 16) is the largest of the historic huts in the Ross Sea region. It was built in January 1911 by the British Antarctic "Terra Nova" Expedition of 1910-1913 which was led by Captain Robert Falcoln Scott, RN. It was subsequently used as a base by the Ross Sea party of Sir Ernest Shackleton's Imperial Trans-Antarctic Expedition of 1914-1917.

Another major feature of this area is the Cross on Wind Vane Hill (Historic Site No. 17) which was erected in the memory of three members of Shackleton's Ross Sea party who died in 1916. In addition to this, there are also the anchors of the ship *Aurora* from the Imperial Trans-Antarctic Expedition, an instrument shelter, several supply dumps and dog kennels, and numerous artefacts distributed around the site.

The Cape Evans site is one of the principal sites of early human activity in Antarctica. It is an important symbol of the Heroic Age of Antarctic exploration, and as such, has considerable historical and cultural significance. Some of the earliest advances in the study of earth sciences, meteorology, flora and fauna are associated with the Terra Nova Expedition based at this site. The history of these activities and the contribution they have made to the understanding and awareness of Antarctica, give this Area significant scientific value.

2. Aims and Objectives

The aim of the management plan is to provide protection for the Area and its features so that its values can be preserved. The objectives of the plan are to:

- avoid degradation of, or substantial risk to, the values of the Area;
- maintain the historic values of the area through planned restoration and conservation work;
- allow management activities which support the protection of the values and features of the Area;
- prevent unnecessary human disturbance to the Area, its features and artefacts by means of managed access to the Terra Nova hut.

3. Management Activities

- a regular programme of restoration and preservation work shall be undertaken on the Terra Nova hut and associated artefacts in the Area;
- visits shall be made as necessary for management purposes;
- National Antarctic Programmes operating in, or those with an interest in, the region shall consul together with a view to ensuring the above provisions are implemented.

4. Period of Designation

Designated for an indefinite period.

5. Maps

Map A: Cape Evans regional map. This map shows the boundaries of the proposed Antarctic Specially Protected Area with significant topographical features, approaches, field camp sites and helicopter landing sites. It also shows the approximate location of significant historical items within the area. Inset: Ross Island showing sites of nearby protected areas and stations.

Map B: Cape Evans site map. This map shows the approximate location of specific historic artefacts and sites within the Area.

6. Description of the Area

6(i) Geographical coordinates, Boundary markers and natural features

Cape Evans is a small, triangular shaped, ice-free area in the south west of Ross Island, 10 kilometres to the south of Cape Royds and 22 kilometres to the north of Hut Point Peninsula on Ross Island. The ice-free area is composed of till-covered basalt bedrock. The designated Area is located on the north western coast of Cape Evans adjacent to Home Beach and centred on Scott's Terra Nova hut. The boundaries of the proposed ASPA are:

- *South*: a line extending east from a point at 77 degrees 38′ 15.47″ S, 166 degrees 25′ 9.48″ E – 20 metres south of the cross on Wind Vane Hill;
- *South / west*: a line from the reference point above extended to follow the crest of the small ridge descending in a north westerly direction to the shoreline at 77 degrees 38′ 11.50″ – 166 degrees 24′ 49.47″ ;
- *North / west*: by the shoreline of Home Beach;
- *North / east*: by the line of the outlet stream from Skua Lake to Home Beach at 77 degrees 38′ 4.89″ – 166 degrees 25′ 13.46″ ;
- *East*: by the line extending south from the western edge of Skua Lade at 77 degrees 38′ 5.96″ – 166 degrees 25′ 35.74″ – to intersect with the southern boundary at 77 degrees 38′ 15.48″ – 166 degrees 25′ 35.68″

A major feature of the Area is Scott's *Terra Nova* hut located on the north western coast of Cape Evans at Home Beach. The hut is surrounded by many historic relics and include the anchors from the *Aurora*, dog skeletons, instrument shelters, dog line, meteorological screen, fuel dump, magnetic hut, coal, stores, rubbish dumps and flag pole. A memorial cross to three members of Shackleton's Ross Sea party of 1914-1917 stands on West Vane Hill. All these features are included within the boundaries of the Area.

Skuas (*Catharacta maccormicki*) nest on Cape Evans and Adelie penguins (*Pygoscelis adeliae*) from the rookery at Cape Royds may occasionally transit the Area. Weddel seals have also been seen hauled up on Home Beach.

6(ii) Restricted Zones within the Area

None.

6(iii) Structures within the Area

All structures located within the Area are of historic origin, although a temporary, modern protective enclosure around the magnetic hut remains in place.

6(iv) Location of other Protected Areas within close proximity

SSSI No. 1 Cape Royds is 10 kilometres north of Cape Evans; SSSI No. 2 Arrival Heights, Hut Peninsula is 22 kilometres south of Cape Evans; and SSSI No. 11 Tramway Ridge is approximately 20 kilometres east of Cape Evans. All sites are located on Ross Island.

7. Permit Conditions

Entry to the Area is prohibited except in accordance with a Permit.

Permits shall be issued only by appropriate national authorities and may contain both general and specific conditions. A Permit may be issued by a national authority to cover a number of visits in a season. Parties operating in the Ross Sea Area shall consult together and with groups and organisations interested in visiting the site to ensure that visitor numbers are not exceeded.

General conditions for issuing a Permit to enter the site may include:

- activities related to preservation, maintenance, research and/or monitoring purposes;
- management activities in support of the objectives of the Plan;
- activities related to tourism, educational or recreational activities providing they do not conflict with the objectives of this plan.

7(i) Access to and Movement within the Area

Control of movement within the Area is necessary to prevent damage caused by crowding around the many vulnerable features within the Area. The maximum number in the Area at any time (including those within the hut is **40 people**.

Control of numbers within the hut is necessary to prevent damage caused by crowding around the many vulnerable features within the hut. The maximum number within the hut at any time (including guides) is **12 people**.

Avoidance of cumulative impacts on the interior of the hut requires an annual limit on visitor numbers. The effects of the current visitor level (approximately 1,000 per calendar year (1995)) suggest that an increase of more than 100 percent could cause significant adverse impacts. The annual maximum number of visitors is **2,000 people**.

These limits have been set based on current visitor levels and on the best advice available from conservation advisory agencies (which include conservators, achaeologists, historians, museologists and other heritage protection professionals). The limits are based on the proposition that any significant increase in the current level of visitor numbers would be detrimental to the values to be protected. An ongoing monitoring programme of the effects of visitors is in place. This will provide the basis for future reviews.

Helicopter landings are prohibited within the Area as they have the potential to damage the site by blowing scoria and ice particles and to accelerate the abrasion of the hut and surrounding artefacts. Landings may be made at the existing designated landing sites (see Maps 1 and 2). One site is approximately 150 metres to the north of the hut outside the Area. Another designated site is located adjacent to the field shelters erected approximately 200 metres beyond the south western boundary of the Area.

Vehicles are prohibited within the Area. Landings from the sea by boat may be made by visitors directly in front of the hut at Home Beach.

7(ii) Activities which may be conducted within the Area

Activities which may be conducted within the area include:

visits for restoration, preservation and/or protection purposes;
educational and/or recreational visits including tourism;
scientific activity which does not detract from the values of the Area.

7(iii) Installation, modification and removal of structures

No new structures are to be erected in the Area, or scientific equipment installed, except for conservation activities as specified in 7(ii). No historic structure, relic or artefact shall be removed from the Area, except for the purposes of restoration and/or preservation and then only in accordance with a Permit.

7(iv) Location of field camps

Use of the historic hut for living purposes is not permitted.

Camping is prohibited in the Area under any circumstances. An existing field camp site is located approximately 300 metres beyond the south western boundary of the area (see Map 2). Two Antarctica New Zealand (New Zealand Antarctic Institute) field shelters are located at this site and should be used by all parties intending to camp in this area. The helicopter pad has been relocated away from the immediate vicinity of Scott s hut inside the Area, to a point immediately outside the Area near the north east boundary. To the north east of Scott s hut is the site of the Greenpeace year-round World Park Base which was removed in 1991-92. the plaque which marked this site was removed in January 1996.

7(v) Restrictions on materials and organisms which may be brought to the Area

No living animals or plant material shall be introduced to the Area.

No poultry products, including food products containing uncooked dried eggs, shall be taken into the Area.

Chemicals which may be introduced for management purposes shall be removed from the Area at or before the conclusion of the activity specified in the plan.

Fuel, food or other materials are not to be left in depots in the Area, unless required for essential purposes connected with the protection and conservation of the historic structures or associated relics. All such materials are to be removed when no longer required.

Smoking, or the use of any naked flame including lanterns, is not permitted in the hut under any circumstances.

7(vi) Taking or harmful interference with native flora and fauna

This activity is prohibited except in accordance with a Permit. Where animal taking or harmful interference is involved, this should, as a minimum standard, be in accordance with the SCAR Code of Conduct for the Use of Animals for Scientific Purposes in Antarctica.

7(vii) Collection or removal of anything not introduced by visitors

Material may be collected and removed from the Area only for restoration, preservation or protection reasons and only in accordance with the management activities detailed as necessary to protect the values of the area in a Permit. Visitors must remove objects, substances, and waste produced by them during their time in the Area. Samples from or specimens of fauna, flora and soil may be removed for scientific purposes only in accordance with an appropriate Permit.

7(viii) Disposal of waste

All human waste and grey water shall be removed from the Area. Waste generated by work parties shall be removed from the Area.

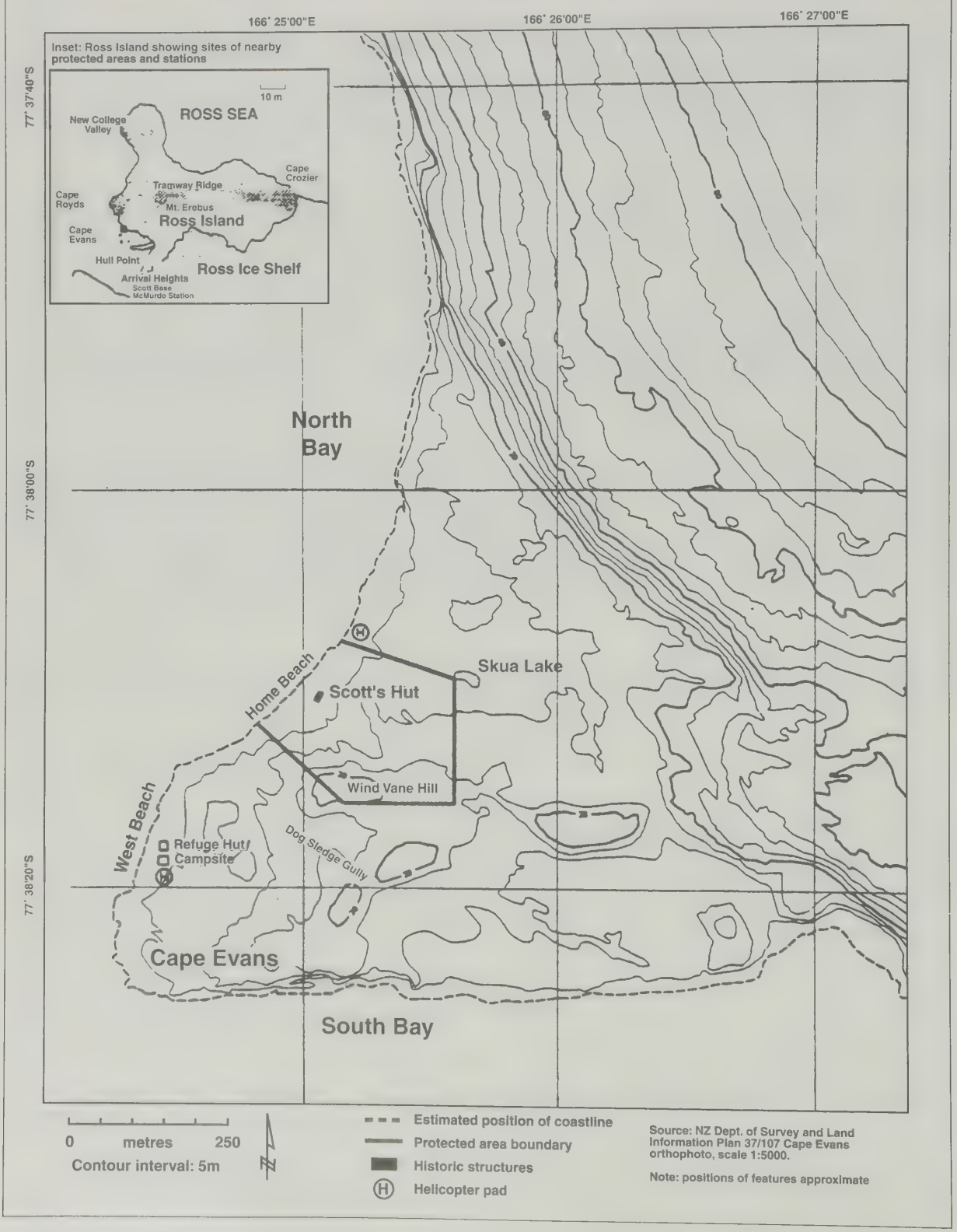
7(ix) Measures that may be necessary to ensure that the aims and objectives of the management plan continue to be met

1. the Permit, or an authorised copy, must be carried within the Area;
2. provision of information for visitors;
3. development of skills and resources, particularly those related to conservation and preservation techniques, to assist with the protection of the Area s values.

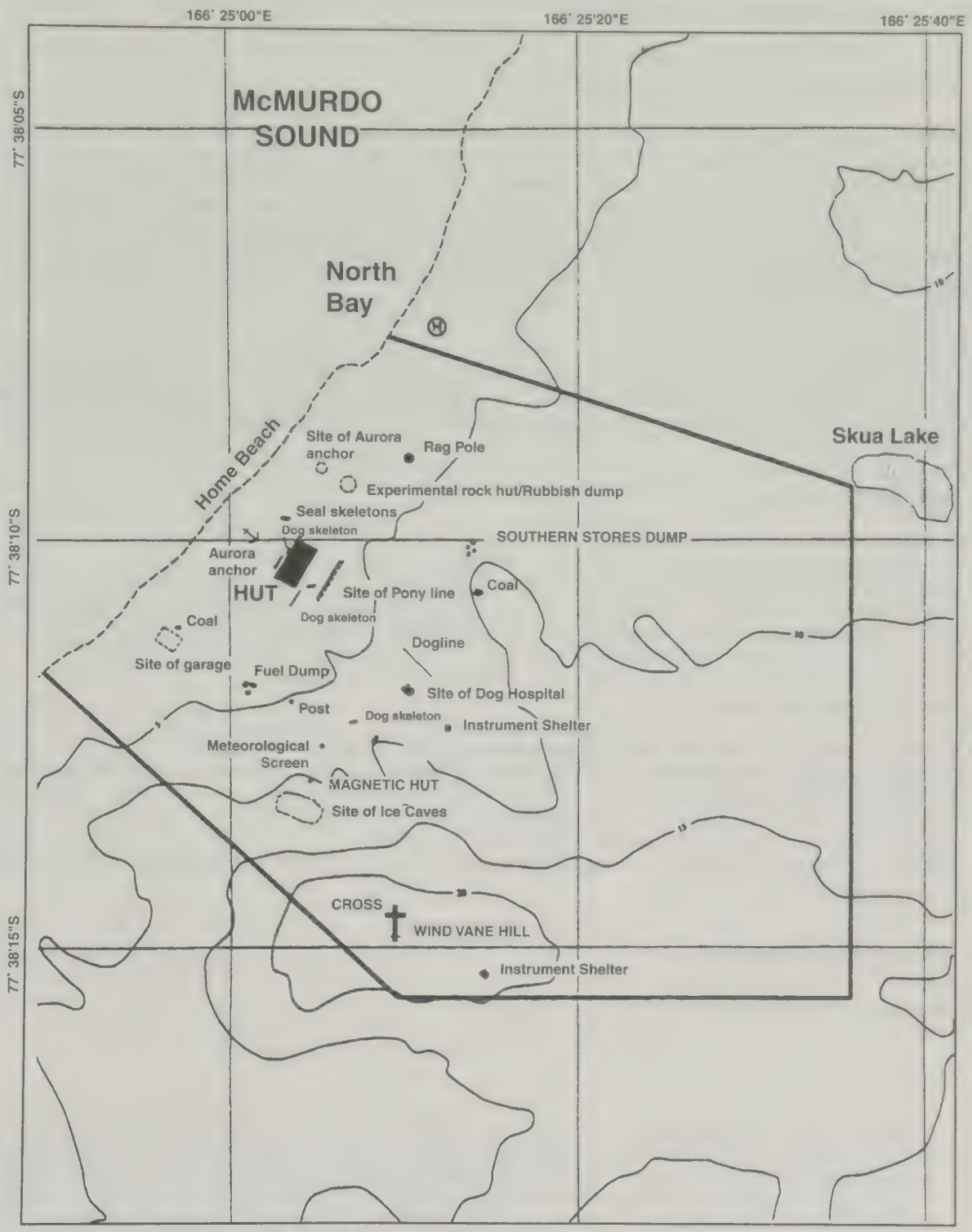
7(x) Requirements for Reports

Parties should ensure that the principal holder for each Permit issued submit to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow an evaluation of the effectiveness of the Management Plan. Parties should wherever possible deposit originals or copies of such reports in a publicaly accessible archive to maintain a record of usage, to be used both for review of the Management Plan and in organising the use of the site.

Map A Cape Evans, Antarctic Specially Protected Area: regional map



Map B Cape Evans, Antarctic Specially Protected Area: site map



Management Plan for Specially Protected Area (SPA) No. 26
LEWIS BAY, MOUNT EREBUS, ROSS ISLAND

1. Description of Values to be Protected

An area on the lower slopes of Mount Erebus, above Lewis Bay on the north side of Ross Island, was originally declared a tomb in Recommendation XI-3 (1081) after notification by New Zealand that 257 people of several nationalities had lost their lives when the DC-10 aircraft in which they were travelling crashed at this site on 28 November 1979. In spite of the determined and courageous actions of the New Zealand and United States Antarctic expeditions the bodies of some of those who died could not be recovered. Expressing deep sympathy with the Government and people of New Zealand, the tomb was declared in order to ensure that the area be left in peace. These reasons for special protection are still valid, and the Area is to be kept inviolate as a mark of respect in remembrance and in order to protect the site's emotional values.

In late 1979 a six foot Oregon timber cross was erected close to the crash site as a memorial to those who lost their lives. After damage by wind, this cross was replaced on 30 January 1987 with a cross of stainless steel, located on a rocky promontory overlooking and approximately 3 kilometres from the site. This is not part of the protected area, but is an Historic Monument (Number 73) in recognition of the commemorative and symbolic values of the cross.

2. Aims and Objectives

Management at Lewis Bay aims to:
- avoid degradation of, or substantial risk to, the values of the Area;
- ensure the crash site is kept inviolate and prevent unnecessary human disturbance to the Area;
- allow visits to the nearby site of the memorial cross for the purposes of commemoration to to pay respects;
- allow visits for the purpose in support of the aims of the management plan.

3. Management Activities

The following management activities are to be undertaken to protect the values of the Area:
- all pilots operating in the region shall be informed of the location, boundaries and restrictions applying to entry and overflight in the Area;
- visits shall be made as necessary (no less than once every five years) for inspection and to assess whether the Area continues to serve the purposes for which it was designated;
- National Antarctic Programmes operating in the region shall consult together with a view to ensuring these steps are carried out.

4. Period of designation

Designated for an indefinite period.

5. Maps and Photographs

Map A: Lewis Bay protected area topographic map. Note: Map A is derived from the Antarctic Digital Database (ADD) Version 1.0, 1993 which was prepared to a base scale of 1:250,000 under the auspices of SCAR. Positional corrections have been applied to the ADD source data using 1993 and 1995 Global Positioning System (GPS) data and 1993 aerial photography. Accuracy of the map remains approximate pending publication of new and accurate Ross Island maps at 1:50,000 scale. The geographical coordinates of the crash site and other features are considered accurate to within approximately 100-200 m horizontally. Elevation data are considered accurate to approximately 100 m vertically.

Map A specifications: Projection: Lambert conformal conic; standard parallels: 1st 79°18'00" S; 2nd 76°42'00" S; Central Meridian: 167°30'00" E; Latitude of Origin: 78°01'16.211" S; Spheriod: GRS80.

INSET: Lewis Bay, Ross Island location map, showing sites of nearby protected areas and stations.

Figure 1: Photograph of the Lewis Bay area and crash site from the memorial cross.

6. Description of the Area

6(i) Geographical coordinates, boundary markers and natural features

The designated Area on Ross Island (Map A) encompasses the crash zone (centred on 167° 28' 30" E, 77°25' 29" S, elevation 520 m (1720 feet) and the surrounding glacial ice 2 km above and to either side of this position, extends as a 4 km wide "rectangle" down to the sea, and includes the airspace above this region to an altitude of 1000 m (3280 feet) with the exception of a 200 m wide air access "corridor" along the coastline. The west boundary of the Area is the 167°23' 33" E meridian; the east boundary is the 167°33' 27" E meridian. The south boundary is the 77°26' 33" S parallel, while the north boundary is defined by the coastline. The aircraft's primary impact occurred at an elevation of 446.7 m: debris was spread up-slope 570 m from that point over an area 120 m wide to an elevation of 580 m (1900 feet). Much of the aircraft wreckage is now buried in ice and is slowly moving down-slope with the glacier (see Figure 1). The bodies of some of those who died could not be recovered and remain in the Area. Boundary markers have not been placed to mark the Area for two reasons: their presence is considered detrimental to the inviolate values of the site, and their maintenance would be impractical on the moving glacier.

6(ii) Restricted Zones within the Area

None

6(iii) Structures within and near the Area

The stainless steel memorial cross (Historic Site Number 73) is located on a rocky outcrop (167°33'43"E, 77°26'38"S; elevation 810 m (2660 feet)) approximately 3 km SE of the crash site, and is a symbol of the special significance of the Area. No other structures exist within or near the Area. Debris from the aircraft remains *in situ*.

6(iv) Location of other protected areas within close proximity of the Area

The nearest protected area to Lewis Bay is SSSI-11 at Tramway Ridge (15 km distant) near the summit of Mount Erebus. Caughley Beach (SSSI-10) and New College Valley (SPA-20) (at Cape Bird) and Cape Royds (SSSI-1) are approximately 35 km west on Ross Island. Cape Crozier (SSSI-4) is 40 km to the east (Inset: Map A).

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a Permit issued by appropriate national authorities. Conditions for issuing a Permit to enter the Area are that:

- it is issued only for compelling purposes that are in support of the aims of the Management Plan;
- the actions permitted will not compromise the values of the Area;
- the actions permitted are in accordance with the Management Plan;
- the Permit, or an authorised copy, shall be carried within the Area;
- a visit report shall be supplied to the authority named in the Permit;
- permits shall be issued for a stated period.

7(i) Access to and movement within the Area

Land vehicles are prohibited within the Area and access shall be by foot or helicopter. Overflight of the Area is prohibited below 1000 m (3280 feet) above sea level, except for essential access related to the values for which this site is protected, or for inspection and monitoring of the site (at least once every five years). An exception to the overflight restriction is provided by a 200 m wide access "corridor" through the Area immediately adjacent to the coastline (Map A), which allows transit of aircraft through the Area at times when visibility or conditions make avoidance of the Area otherwise impractical. No special restrictions apply to the air routes used to move to and from the Area by helicopter when access is permitted. Use of helicopter smoke grenades within the Area is prohibited unless absolutely necessary for safety, and these should be retrieved.

7(ii) Activities that are or may be conducted in the Area, including restrictions on time or place

All visits to the Area for any purpose shall be made recognising the principal values to be protected in the Area, and as far as possible the Area should be left in peace. Visits may be made for essential inspection to ensure the

values of the Area are being maintained, and to determine if materials at the site present a problem by emergence from the ice and then possible wind dispersal, or for securing or removal of such items. Visits may also be made for removal of materials introduced into the Area subsequent to its designation, if appropriate.

7(iii) Installation, modification or removal of structures
No structures are to be erected within the Area except as specified in a Permit. It is prohibited to modify or remove any structure that was present within the Area at the time of special protection designation.

7(iv) Location of Field Camps
Camping is prohibited within the Area, unless under exceptional circumstances for management or protection. Where camping is required for such activities, the site selected shall be no closer than 200 m from the location of the wreckage at the time of the visit.

7(v) Restrictions on materials which can be brought into the Area
It is prohibited to introduce any materials into the Area. Smoke grenades used when absolutely necessary for safety of air operations should be retrieved.

7(vi) Taking or harmful interference with native flora or fauna
Taking or harmful interference with native flora or fauna is prohibited within the Area.

7(vii) Collection or removal of anything not brought into the Area by the Permit holder
Collection or removal of anything not brought into the Area by the Permit holder is prohibited, unless it has been determined that materials at the site are emerging from the ice and their dispersal by wind presents a management problem. If this is the case, such materials should be appropriately disposed of with due regard to the families of victims and according to national procedures. Materials introduced into the Area subsequent to designation may be removed unless the impact of removal is likely to be greater than leaving the material *in situ*: if this is the case the appropriate authority should be notified.

7(viii) Disposal of Waste
It is prohibited to dispose of any waste, including all human wastes, within the Area.

7(ix) Measures that are necessary that the aims and objectives of the Management Plan can continue to be met
None specified.

7(x) Requirements for Reports
Parties should ensure that the principal holder for each permit issued submit to the appropriate authority a report describing the activities undertaken. Such reports include, as appropriate, the information identified in the Visit Report form suggested by SCAR. Parties should maintain a record of activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, which should be in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should, wherever possible, deposit originals or copies of such original reports in a publicly accessible archive to maintain a record of usage in any review of the management plan.

Map A – Lewis Bay Antarctic Specially Protected Area No. 26

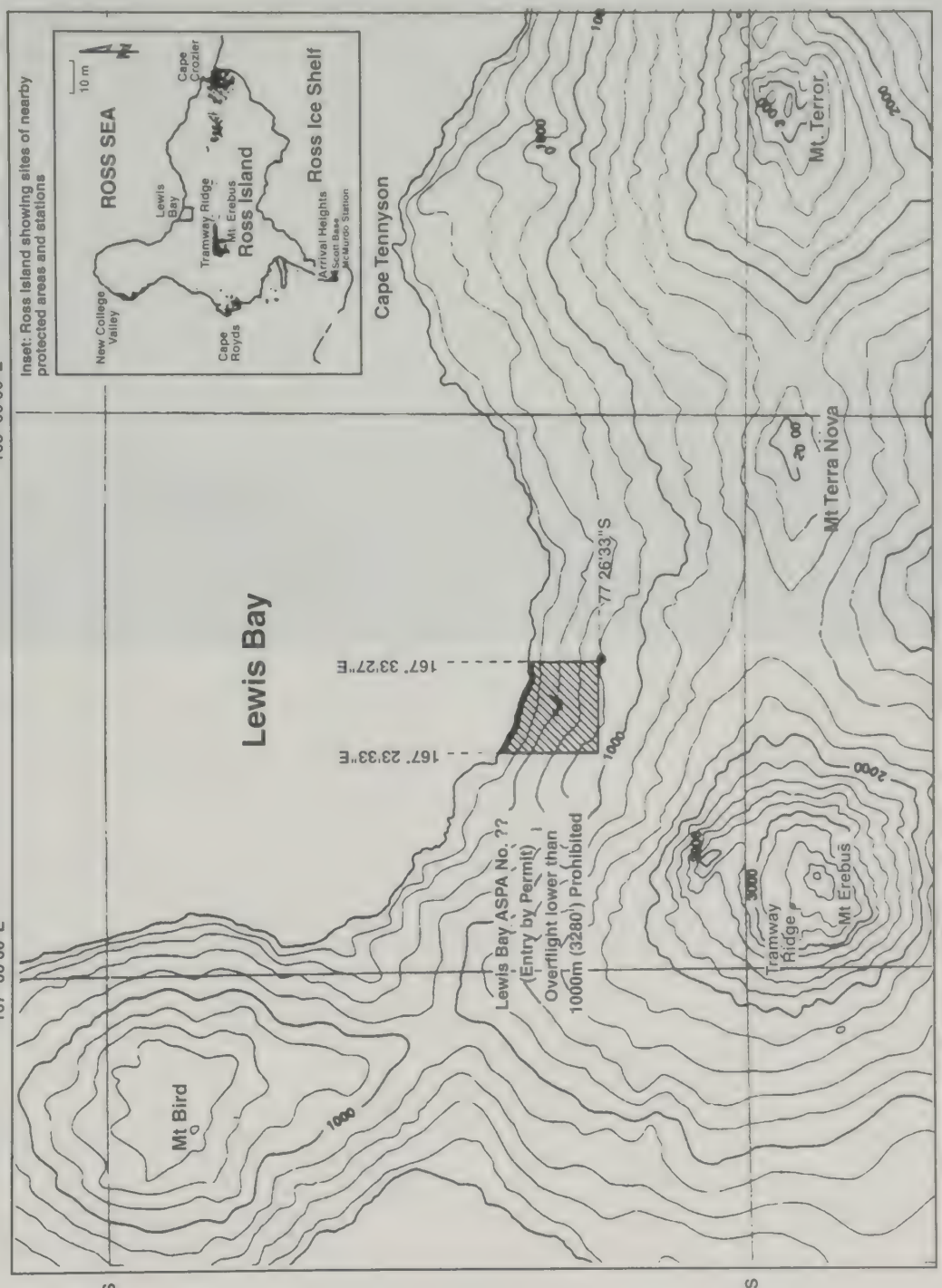




Figure 1. Lewis Bay from memorial cross site (December 1993).

Measure 3 (1997)

Antarctic Protected Areas System: Revised Descriptions and Management Plans for Sites of Special Scientific Interest (SSSI)

SSSI 11: Tramway Ridge

SSSI 12: Canada Glacier, Taylor Valley, Victoria Land (Annex A)

SSSI 13: Potter Peninsula, 25 de Mayo Island (King George Island), South Shetland Islands (Annex B)

SSSI 14: Harmony Point, Nelson Island, South Shetland Islands (Annex C)

SSSI 15: Cierva Point, Danco Coast, Antarctic Peninsula (Annex D)

SSSI 37: Botany Bay, Cape Geology, Victoria Land

The Representatives,

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

1. For the following Sites of Special Scientific Interest, that the relevant Management Plans annexed to this Measure be inserted in the Annex to Recommendation XIII-8 to replace those plans previously annexed to this Recommendation:

   SSSI 12: Canada Glacier, Taylor Valley, Victoria Land (Annex A)

   SSSI 13: Potter Peninsula, 25 de Mayo Island (King George Island), South Shetland Islands (Annex B)

   SSSI 14: Harmony Point, Nelson Island, South Shetland Islands (Annex C)

   SSSI 15: Cierva Point, Danco Coast, Antarctic Peninsula (Annex D)

2. For SSSI No. 37 Botany Bay, Cape Geology, Victoria Land, that the Management Plan annexed to this Measure (Annex E) be approved and adopted.
3. For SSSI No. 11 Tramway Ridge, that the term restricted zone be changed to prohibited zone .
4. That the Consultative Parties ensure that their nationals comply with the mandatory provisions of the new and revised management plans.

Management Plan for Site of Special Scientific Interest (SSSI) No. 12

CANADA GLACIER, TAYLOR VALLEY, VICTORIA LAND

1. Description of values to be protected

An area of 1 km^2 to the east side of Canada Glacier was originally designated in Recommendation XIII-8 (1985, SSSI No. 12) after a proposal by New Zealand on the grounds that it contains some of the richest plant growth (bryophytes and algae) in the southern Victoria Land Dry Valleys. As such, the Area is of exceptional intrinsic ecological value, and is also of scientific value to botanists, zoologists and microbiologists. The Area is designated primarily to protect the site's ecological values. It is also valuable as a reference site for other dry valley ecosystems. The boundaries of this site have been changed such that the Area now includes biologically rich communities that were previously excluded. The Area, located at an elevation of between 20 and 220 m, comprises gently to moderately sloping ice-free ground with summer ponds and small meltwater streams draining from the Canada Glacier to Lake Fryxell. Most of the plant growth occurs in a flush area close to the glacier in the central part of the Area. The composition and distribution of the plant communities in the Area are correlated closely with the water regime. Thus, water courses and water quality are important to the values of the site. The Area is unusual in that it receives higher levels of moisture compared with other parts of the south Victoria Land Dry Valleys, and is sheltered from strong winds by the nearby 20 m glacier face.

The Area has been well-studied and documented, which adds to its scientific value. However, the plant communities are fragile and vulnerable to disturbance and destruction by trampling and sampling. Damaged areas will be slow to recolonise. Sites damaged at known times in the past have been identified, which are valuable in that they provide one of the few areas in the Dry Valleys where the long-term effects of disturbance, and recovery rates, can be measured.

The Area requires long-term special protection because of its exceptional moss communities for the south Victoria Land Dry Valleys and thus ecological importance; its scientific values; the limited geographical extent of the ecosystem; the vulnerability of the Area to disturbance through trampling, sampling, pollution or alien introductions; and in view of the existing and increasing pressure from scientific, logistic and tourist activities in the region.

2. Aims and objectives

Management at Canada Glacier aims to:

- avoid degradation of, or substantial risk to, the values of the Area by preventing unnecessary human disturbance to the Area;
- allow scientific research on the ecosystem and elements of the ecosystem in particular moss communities while ensuring protection from over-sampling;
- allow other scientific research provided it is for compelling reasons which cannot be served elsewhere;
- minimise the possibility of introduction of alien plants, animals and microbes to the Area;
- allow visits for management purposes in support of the aims of the management plan.

3. Management Activities

The following management activities are to be undertaken to protect the values of the Area:

- Signs illustrating the location and boundaries with clear statements of entry restrictions shall be placed at appropriate locations at the boundaries of the Area to help avoid inadvertant entry.
- Signs showing the location of the Area (stating the special restrictions that apply) shall be displayed prominently, and a copy of this Management Plan shall be kept available, in all of the research hut facilities located in the Taylor Valley that are within 20 km of the Area.
- Brightly coloured markers, clearly visible from the air and posing no significant threat to the environment, shall be placed to mark the helicopter landing pad.

- Durable wind direction indicators should be erected close to the designated helicopter landing site. These should be replaced as needed and removed when no longer required.
- Markers, signs or structures erected within the Area for scientific or management purposes shall be secured and maintained in good condition.
- Visits shall be made as necessary (no less than once every five years) to assess whether the Area continues to serve the purposes for which it was designated and to ensure management and maintenance measures are adequate.
- National Antarctic Programmes operating in the region shall consult together with a view to ensuring these steps are carried out.

4. Period of Designation

Designated for an indefinite period.

5. Maps and Photographs

Map A: Canada Glacier, Taylor Valley, location map. Map specifications:
Projection: Lambert conformal conic;
Standard parallels: 1st 79° 18′ 00″ S; 2nd 76° 42′ 00″ S
Central Meridian: 162° 30′ 00″ E Latitude of Origin: 78° 01′ 16.2106″ S;
Spheroid: WGS84.
Inset: McMurdo Dry Valleys and Ross Island region, showing the location of McMurdo Station (US) and Scott Base (NZ), and the location of the other specially protected areas in the Dry Valleys (Barwick Valley SSSI-3, and Linnaeus Terrace SSSI –19).

Map B: Canada Glacier, protected area location image map. Specifications are the same as those for Map A; the underlying image is Landsat Thematic Mapper Band 4, 6 January 1993, Row 115 Path 57, with an original pixel resolution of 30 m.

Map C: Canada Glacier, topographic map. Map specifications are the same as those for Map A. Contours are derived from the digital elevation model used to generate the orthophotograph in Map D. Precise area of moist ground associated with the flush is subject to variation seasonally and inter-annually.

Map D: Canada Glacier, site orthophotograph. Specifications are the same as those for Map A; the original orthophotograph was prepared at 1:2500 in colour with a pixel resolution of 0.25 m and a positional accuracy of <1 m. Photography USGS/DoSLI (SN7856) 22 November 1993.

Figure 1: Perspective view of the Canada Glacier protected area, combining orthophoto and Landsat images. The perspective is from an elevation of 485 m (1600 ft), 1.1 km out from the Area at a bearing of 95° SE.

6. Description of the Area

6(i) Geographical coordinates, boundary markers and natural features

The designated Area encompasses most of the glacier forefield area on the east side of the lower Canada Glacier, on the north shore of Lake Fryxell (77°37′ S, 163°03′ E: Maps A and B). The south boundary of the Area is defined as the shoreline of Lake Fryxell, to the water's edge, extending about 1 km east from where the Canada Glacier toe meets Lake Fryxell. The west boundary of the Area follows the edge of the Canada Glacier. The SE corner is near the neck of a small peninsula extending into L. Fryxell. The peninsula, outside of the Area, is marked by a large rock (split) surrounded by a circle of rocks which was a benchmark for the 1985 NZ survey of the original SSSI. A wooden post marking Dry Valley Drilling Project Site 7 (1973) is about 10 m to the NW of this point. A moraine ridge extends from the SE corner upward and in a northerly direction: this ridge defines the eastern boundary of the Area. The ridge dips sharply before joining the featureless slope of the main Taylor Valley wall: the NE corner of the Area is in this dip and will be marked by a cairn. A cairn will also be placed on a knoll on the ridge 450 m from the SE corner point.

Above the central flush a slope of lateral moraine of fairly even gradient extends upward and parallel to the glacier for about I km. At the top of this slope is a small knoll (220 m) about 300 m from where the glacier emerges into the Taylor Valley: a cairn and signpost will mark the boundary of the Area at this point. The upper, northern,

boundary of the Area extends from the Canada Glacier to the boundary markers on the knoll and thence declines in elevation in an easterly direction for 1.7 km to the NE boundary cairn. The broad area above this upper boundary outside of the Area as an access corridor between L. Fryxell and L. Hoare.

The central flush area (Maps C and D) containing the richest stands of vegetation is close to the glacier edge, near a small, shallow pond. The flush area is gently sloping and very moist with numerous small ponds and rivulets in the summer. The slopes above this area are better drained, but vegetation colonises several small stream channels which extend parallel to the glacier from the upper boundary of the Area down to the flush. Undulating moraines assist accumulation of persistent snow patches on this slope, which may also provide moisture for plant growth. Stream channels, and associated vegetation, become less obvious with distance from the glacier. These slopes and the central flush are drained to the SE by Canada Stream, one of three streams which dominate the water input to Lake Fryxell. In the 1990 91 season Canada Stream had a maximum streamflow of 0.65 m3s-1 with a peak daily mean flow of 0.34 m3s-1, both occurring in December.

Three moss species have been identified from the flush area: *Bryum argenteum*, *Bryum pseudotriquetrum* and *Pottia heimii*. Lichen growth in the Area is inconspicuous, but two epilithic lichens, *Carbonea capsulata* and an unknown species of *Sarcogyne*, and *Lecanora expectans* and *Caloplaca citrina* may be found in a small area near the outflow of the pond near Canada Glacier. Chasmoendolithic lichens occur in many boulders. Over 37 species of freshwater algae have been described at the site, predominantly from the Cyanophyta. The upper part of Canada Stream superficially appears sparse in algal growth. However, abundant encrusting epilithophytes grow on the undersides of stones and boulders. Two algae, *Prasiola calophylla* and *Chamaesiphon subglobosus*, have been observed only in this upper part of the stream. Cyanobacterial mats are extensive in the middle and lower reaches of the stream. Mucilaginous colonies of *Nostoc commune* dominate wetter parts of the central flush, while oscillatoriacean felts cover much of the mineral fines. Epiphytic algae, dominated by *Nostoc*, are common over the surface of *Bryum argenteum* and *Pottia heimii*. The lower stream is similar in floral composition, although it is notable in that the alga *Tribonema elegans* is abundant while absent further upstream: this is the first record of this alga from Antarctica. *Phormidium* and *Gloeocapsa* species are common throughout the stream-course.

Invertebrates from six phyla have been described in the Area: the three main groups are Rotifera, Nematoda and Tardigrada, with Protozoa, Platyhelminthes, and Arthropoda also present.

Evidence of human activities is commonplace within the Area. The main forms of damage evident at sites of vegetation are paths and footprints, removal of core samples from bryophyte turfs, and removal of larger clumps of bryophyte turfs. A number of old markers exist in the flush area and there has been some site modification close-by in the form of small rock dams, soil pits and several old campsites much of this was remediated in the 1995 96 season. A plastic greenhouse was erected within the Area close to the flush in 1979 for experimental growth of garden vegetables, but this was destroyed in 1983 by a winter storm. Remains of the greenhouse found in the Area have been removed.

6(ii) Restricted zones within the Area
None.

6(iii) Structures within and near the Area
The first New Zealand hut at Canada Glacier was relocated to a second site in 1989, and removed completely in 1995 96. The second site is now designated for essential camping associated with research, marked on Maps C and D. Paths marked by lines of rocks, areas cleared for use as campsites, an old helicopter pad, and several low rock structures associated with the first hut site have now been remediated. A series of at least four shallow pits (~1 m in depth) were dug close to the old hut site. The second hut site comprised two small buildings, several new campsites, and a new helicopter pad. A path exists between the site and the glacier edge, crossing a moist area of plant growth. The helicopter pad remains as the current designated landing site.

A rock weir had been constructed in the constricted part of Canada Stream prior to 1981; in 1990 a more substantial weir and 9-inch Parshall flume were installed nearby (Maps C and D). The flume is made of black fibreglass. The weir consists of polyester sandbags filled with alluvium from near the stream channel: areas disturbed during construction were restored and after one season were not evident. The upstream side of the weir is lined with vinyl-coated nylon. A notch has been built into the weir for relief in case of high flow. Clearance of seasonal snow from the channel has been necessary to prevent water from backing up at the weir. Data logging instrumentation and batteries are stored in a plywood crate located nearby on the north side of the stream.

Signposts and cairns mark the Area boundaries.

The US Fryxell Hut (20 m ASL) is located 1.5 km to the east, and Hoare Hut (65 m ASL is located 3 km to the west of the Area (Maps A and B).

6(iv) Location of other protected areas within close proximity of the Area
The nearest protected areas to Canada Glacier are Linnaeus Terrace (SSSI-19) 47 km west in the Wright Valley, and Barwick Valley (SSSI-3) 50 km to the NW (Inset, Map A).

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a Permit issued by appropriate national authorities. Conditions for issuing a Permit to enter the Area are that:

- it is issued only for scientific study of the ecosystem, or for compelling scientific reasons that cannot be served elsewhere, or for essential management purposes consistent with plan objectives such as inspection or review;
- the actions permitted will not jeopardise the ecological or scientific values of the Area;
- any management activities are in support of the aims of the Management Plan;
- the actions permitted are in accordance with the Management Plan;
- the Permit, or an authorized copy, shall be carried within the Area;
- a visit report shall be supplied to the authority named in the Permit;
- permits shall be issued for a stated period.

7(i) Access to and movement within the Area
Vehicles are prohibited within the Area and access shall be by foot or by helicopter. Helicopter access should be from south of the line marked on the accompanying site maps, and overflight within the Area less than 100m Above Ground Level (AGL) north of this line is prohibited. Helicopters shall land only at the designated site (163° 02' 53" E, 77° 36' 58" S: Map B) and overflight of the Area should generally be avoided. Exceptions to these flight restrictions, which will only be granted for an exceptional scientific or management purpose, must be specifically authorised by Permit. Use of helicopter smoke grenades within the Area is prohibited unless absolutely necessary for safety, and then these should be retrieved. Visitors, pilots, air crew, or passengers *en route* elsewhere on helicopters, are prohibited from moving on foot beyond the immediate vicinity of the designated landing and camping site unless specifically authorised by a Permit.

Pedestrians travelling up- or down-valley shall not enter the Area without a Permit. Permitted visitors entering the Area are encouraged to keep to established routes where possible. Visitors should avoid walking on visible vegetation or through stream beds. Care should be exercised walking in areas of moist ground, where foot traffic can easily damage sensitive soils, plant and algal communities, and degrade water quality: walk around such areas, on ice or rocky ground, and step on larger stones when stream crossing is necessary. Care should also be taken of salt-encrusted vegetation in drier areas, which can be inconspicuous. Pedestrian traffic should be kept to the minimum necessary consistent with the objectives of any permitted activities and every reasonable effort should be made to minimise effects.

7(ii) Activities that are or may be conducted in the Area, including restrictions on time or place

- Scientific research that will not jeopardise the ecosystem of the Area;
- Essential management activities, including monitoring.

In view of the importance of the water regime to the ecosystem, activities should be conducted so that disturbance to water courses and water quality is minimised. Activities occurring outside of the Area (e.g. on the Canada Glacier) which may have the potential to affect water quality should be planned and conducted taking possible downstream effects into account. Those conducting activities within the Area should also be mindful of any downstream effects within the Area and on Lake Fryxell.

7(iii) Installation, modification or removal of structures
Any structures erected or scientific equipment installed within the Area are to be specified in a Permit. Scientific equipment shall be clearly identified by country, name of the principal investigator and year of installation. All such items should be made of materials that pose minimal risk of contamination of the Area. Removal of specific equipment for which the Permit has expired shall be a condition of the Permit.

7(iv) Location of field camps
Nearby permanent camps outside of the Area should be used as a base for work in the Area. Camping at the designated campsite (Maps B and C) may be permitted to meet specific essential scientific or management needs.

7(v) Restrictions on materials and organisms which can be brought into the Area
No living animals, plant material or microorganisms shall be deliberately introduced into the Area and precautions shall be taken against accidental introductions. No herbicides or pesticides shall be brought into the Area. Any other chemicals, including radio-nuclides or stable isotopes, which may be introduced for scientific or management purposes specified in the Permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted. Fuel is not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All materials introduced shall be for a stated period only, shall be removed at or before the conclusion of that stated period, and shall be stored and handled so that risk of their introduction into the environment is minimised.

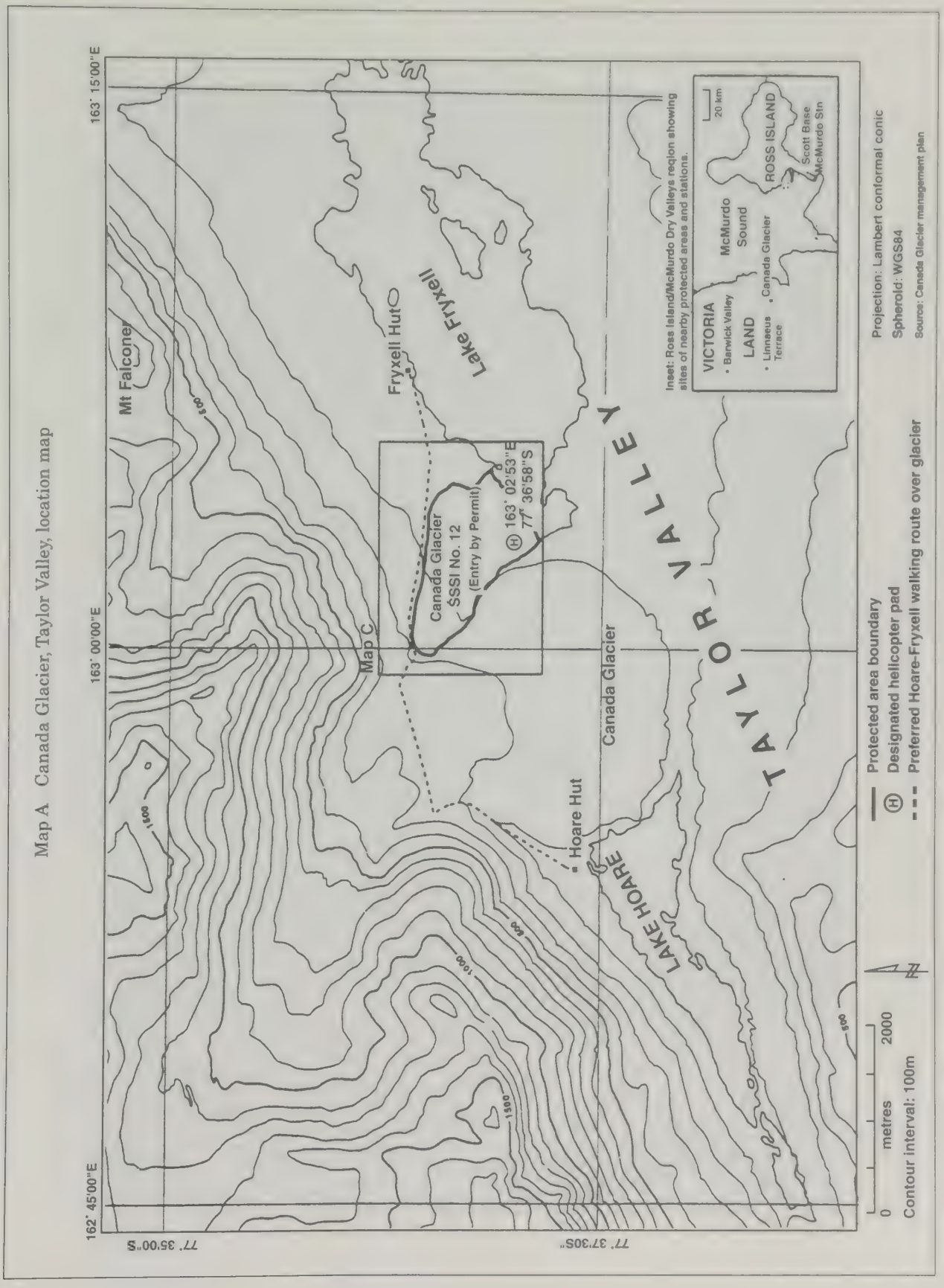
7(vi) Taking or harmful interference with native flora or fauna
This is prohibited, except in accordance with a Permit. Where animal taking or harmful interference is involved this should, as a minimum standard, be in accordance with the SCAR Code of Conduct for the Use of Animals for Scientific Purposes in Antarctica.

7(vii) Collection or removal of anything not brought into the Area by the Permit holder
Material may be collected or removed from the Area only in accordance with a Permit and should be limited to the minimum necessary to meet scientific or management needs. Material of human origin likely to compromise the values of the Area, which was not brought into the Area by the Permit Holder or otherwise authorised, may be removed unless the impact of removal is likely to be greater than leaving the material *in situ*: if this is the case the appropriate authority should be notified.

7(viii) Disposal of waste
All wastes, including all human wastes, shall be removed from the Area.

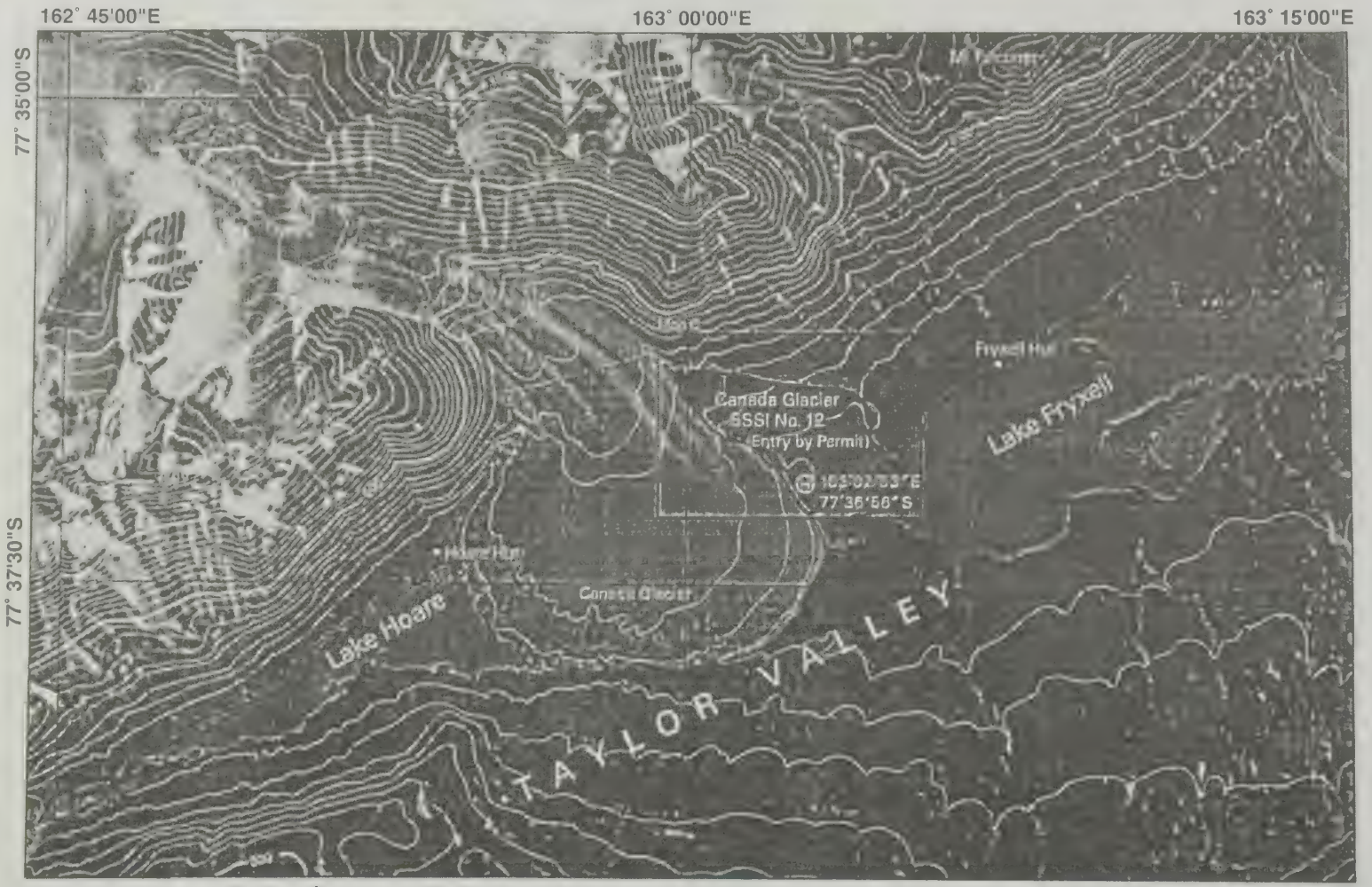
7(ix) Measures that are necessary to ensure that the aims and objectives of the Management Plan can continue to be met
1. Permits may be granted to enter the Area to carry out biological monitoring and site inspection activities, which may involve the collection of small samples for analysis or review, to erect or maintain signposts, or for protective measures.
2. Any specific sites of long-term monitoring shall be appropriately marked.
3. To help maintain the ecological and scientific values of the plant communities found at the Area visitors shall take special precautions against introductions. Of particular concern are microbial or vegetation introductions sourced from soils at other Antarctic sites, including stations, or from regions outside Antarctica. To minimise the risk of introductions, visitors shall thoroughly clean footwear and any equipment to be used in the area particularly camping and sampling equipment and markers before entering the Area.

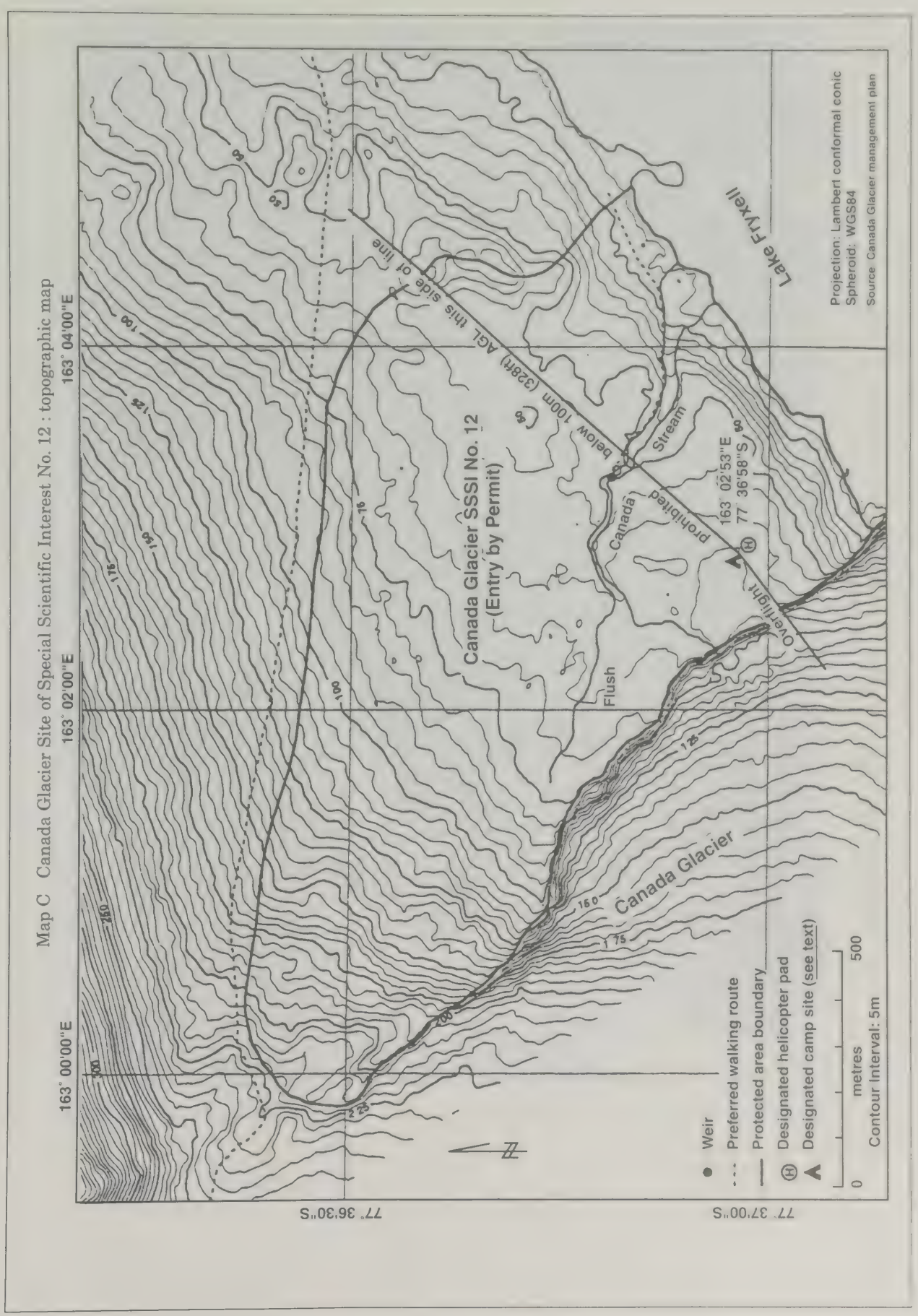
7(x) Requirements for reports
Parties should ensure that the principal holder for each permit issued submit to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, which should be in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should, wherever possible, deposit originals or copies of such original reports in a publicly accessible archive to maintain a record of usage, to be used both in any review of the management plan and in organising the scientific use of the Area.



Map A Canada Glacier, Taylor Valley, location map

Map B Canada Glacier, Taylor Valley, location image-map




Map C Canada Glacier Site of Special Scientific Interest No. 12 : topographic map
163° 00'00"E
163° 02'00"E
163° 04'00"E
77° 36'30"S
77° 37'00"S
Canada Glacier SSSI No. 12
(Entry by Permit)
below 100m (328ft) AGL this side of line
Lake Fryxell
Canada Stream
Flush
Prohibited
Overflight
163° 02'53"E
77° 36'58"S
Canada Glacier
Weir
Preferred walking route
Protected area boundary
Designated helicopter pad
Designated camp site (see text)
0
metres
500
Contour Interval: 5m
Projection: Lambert conformal conic
Spheroid: WGS84
Source: Canada Glacier management plan

Map D Canada Glacier Site of Special Scientific Interest No. 12 : site orthophotograph

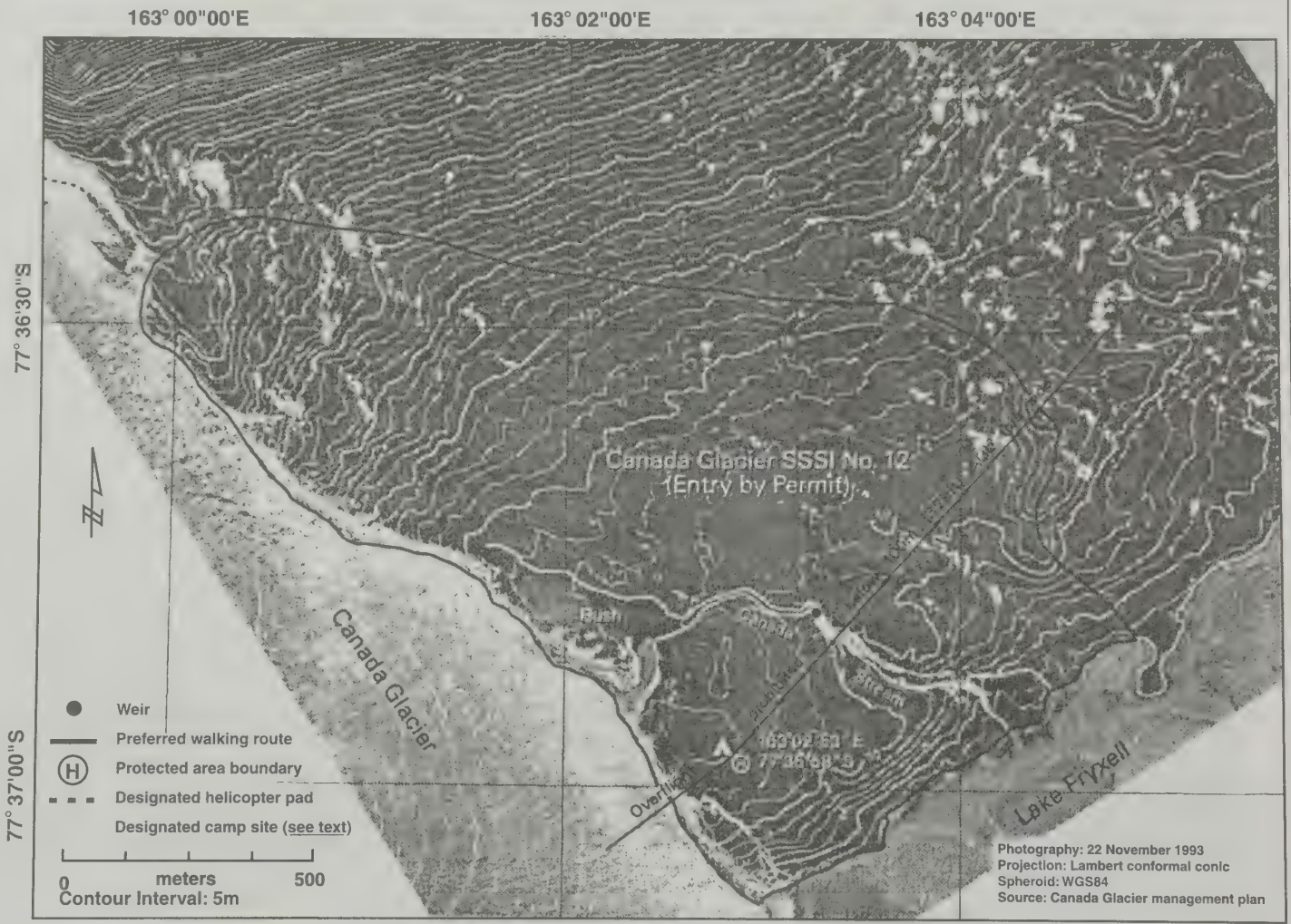


Figure 1 Canada Glacier, perspective view



Management Plan for Site of Special Scientific Interest (SSSI) No 13

POTTER PENINSULA
25 DE MAYO (KING GEORGE) ISLAND
SOUTH SHETLANDS ISLANDS

1. Description of Values to be Protected

This area was originally designated as SSSI No. 13 in ATCM Recommendation XIII-8 after a proposal by Argentina because of its diverse avian and mammal fauna and locally rich vegetation, providing a representative sample of maritime Antarctic ecosystem. Coastal areas support large breeding colonies of ten seabird species, including three penguin species and three species of marine mammals.

The reasons for the original designation of the Area are still relevant. Scientific research on the breeding ecology of elephant seals and seabirds has been undertaken since 1982. This includes both the CCAMLR Ecosystem Monitoring Programme and basic biological and ecological research that must be developed without interferences by other human activities. Long-term research programmes could be endangered by accidental interference, especially during breeding periods.

2. Aims and Objectives

Management of Potter Peninsula aims to:
- Avoid major changes in the structure and composition of communities of flora and fauna;
- Prevent unnecessary human disturbance to the area;
- Permit scientific research which cannot be served elsewhere, and allow the continuity of the ongoing long-term biological and ecological research programmes established in the Area.

3. Management Activities

The following management activities will be undertaken to protect the values of the area:
- Because the area is close to a station permanently occupied, a marker board will be placed at the principal access point illustrating the location boundaries and stating entry restrictions;
- Within the Area those locations used for reasearch will be clearly marked.
- Priority pedestrian routes within the Area will be established for transit to sample sites.
- Collection of samples will be limited to the minimum required for approved scientific research.
- Visits shall be made as necessary to ensure management and maintenance measures are adequate.

4. Period of Designation

Designated for an indefinite period.

5. Maps

Map 1 shows the location of Potter Peninsula in relation with the Antarctic Peninsula.

Map 2 shows the location of Potter Peninsula in relation with 25 de Mayo (King George) Island. Map 3 shows the Protected Area in greater detail.

6. Description of the Area

6(i) Geographical co-ordinates and natural features of the Area

The site is located on the east side of Maxwell Bay, south-west of 25 de Mayo (King George) Island between Mirounga Point (the north-west most extreme point of Potter Peninsula) and the east side of Stranger Point (lat. 62° 15′ S - long 58° 37′ W). The site occupies the coastal zone of variable width up to 500 m from the shore line (low water mark) and rising to above 70m altitude at Stranger Point. It is maintly an area of raised beaches, most-

ly pebble-covered, backed by basalt cliffs, terminal or lateral moraines and small glaciers. The coastline is very irregular and alternates between small base and rocky headlands.

This area offers a great scientific value by the presence of many bird colonies (Adelie penguin, gentoo penguin, chinstrap penguin, Dominican gull, brown skua, Antarctic tern, sheathbill, giant petrel and cape petrel) and breeding groups of marine mammals (Crabeater seal, Weddell seal, Southern elephant seal). There is a relatively abundant development of lichen-dominated plant communities, especially on the succession of prominent rocks along the beach. Long-term research and research programmes could be endangered by accidental interference, destruction of vegetation and soil, and perturbation of breeding birds and mammals.

6(ii) Restricted zones within the Area
None

6(iii) Location of structures within the Area
Within the Area there is a small Argentine refuge used by research teams. The refuge measuring 3 by 2.5m, is built of metal sheets and glass-fibre roof. It can accommodate up to two persons. Approximately 500 metres outside the site is placed Jubany Station.

6(iv) Location of other Protected Areas within close proximity
SSSI No. 5, Fildes Peninsula lies about 20 km to the east direction. SSSI No. 8 Western Shore of Admiralty Bay lies 10 km to the north-east direction. SSSI No. 14 Harmony Point, lies about 30 km to the WSW direction.

7. Permit conditions

Entry into the Area is prohibited except in accordance with a permit issued by appropriate national authorities.

Conditions for issuing a Permit to enter the Area are that:

- It is used to continue study for the natural history, biology and ecology of the flora and fauna of the area or for a compelling scientific purpose that cannot be met elsewhere;
- The actions permitted will not jeopardise the natural ecological system in the Area;
- Any management activities are in support of the objectives of the Management Plan;
- The actions permitted are in accordance with this Management Plan;
- The Permit, or authorised copy, must be carried within the Site of Special Scientific Interest.
- A report or reports are supplied to the authority that issued the Permit.

7(i) Access to and movements within the Area
The access to the Area is restricted to the Northern end, near the helipad. Marine access will be restricted to a landing site in front of the refuge. No vehicles or aircraft are permitted in the Area except under emergency.

Limitation on access to particular localities used by breeding birds and mammals for specific periods may be necessary.

7(ii) Activities which are or may be conducted within the Area including restrictions on time and place
Scientific study and monitoring of the populations of flora and fauna in the area and compelling scientific research which cannot be conducted elsewhere and which will not interfere with ongoing long-term research programmes or jeopardise the structure or dynamics of the ecosystem of the Area.

Essential management activities, including monitoring.

7(iii) Installation, modification or removal of structures
No additional structures are to be erected in the Area, or scientific equipment installed, except for essential scientific or management activities, as specified in a Permit.

7(iv) Location of field camps
Parties using the Area will normally be able to use Jubany Station. In the event that this is not possible, a camp site should be used near the existing station and outside the Area.

7(v) Restriction on material and organisms which may be brought into the Area
No living animals or plant material shall be deliberately introduced into the Area.

No poultry products, including food products containing uncooked dried eggs, shall be taken into the Area. No herbicides or pesticides shall be brought into the Area. Any other chemicals, which may be introduced for compelling scientific purpose specified in the permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted.

As far as possible the use of chemicals should be clearly documented for the benefit of later researchers.

Fuel, food and other material are not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All such material introduced are to be removed when no longer required. Permanent depots are not permitted.

7(vi) Taking or harmful interference with native flora and fauna
This is prohibited, except in accordance with a Permit. Where animal taking or harmful interefence is involved this should be in accordance with the SCAR Code of Conduct for Use of Animals for Scientific Purposes in Antarctica, as a minimum standard.

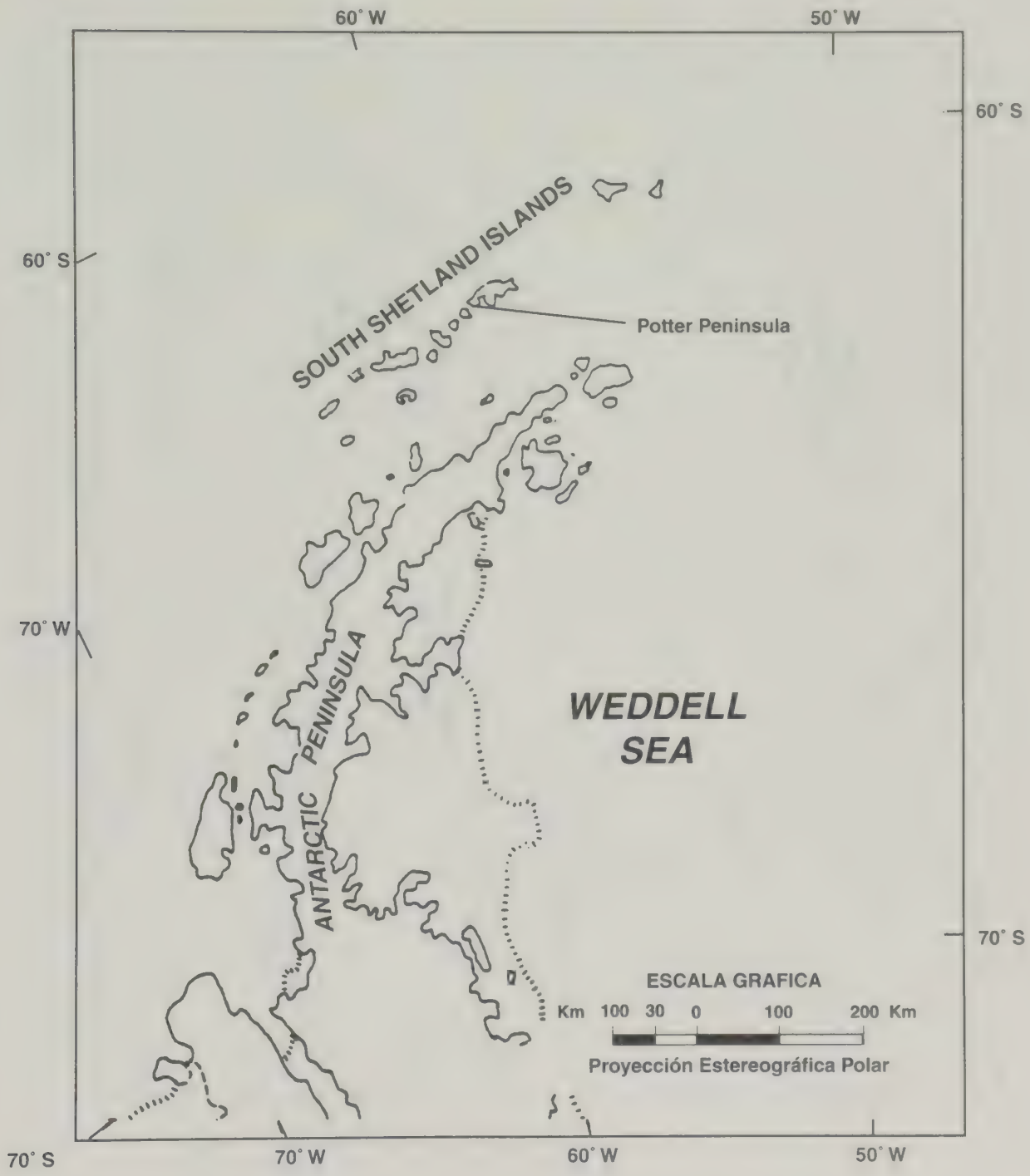
7(vii) Collection or removal of anything not brought into the area by the permit holder
Biological specimens and samples may be collected and/or removed from the Area only according to a permit. Debries of human origin should be removed and reported to the authority that issued the permit. Dead biological specimens may be removed for pathological analysis.

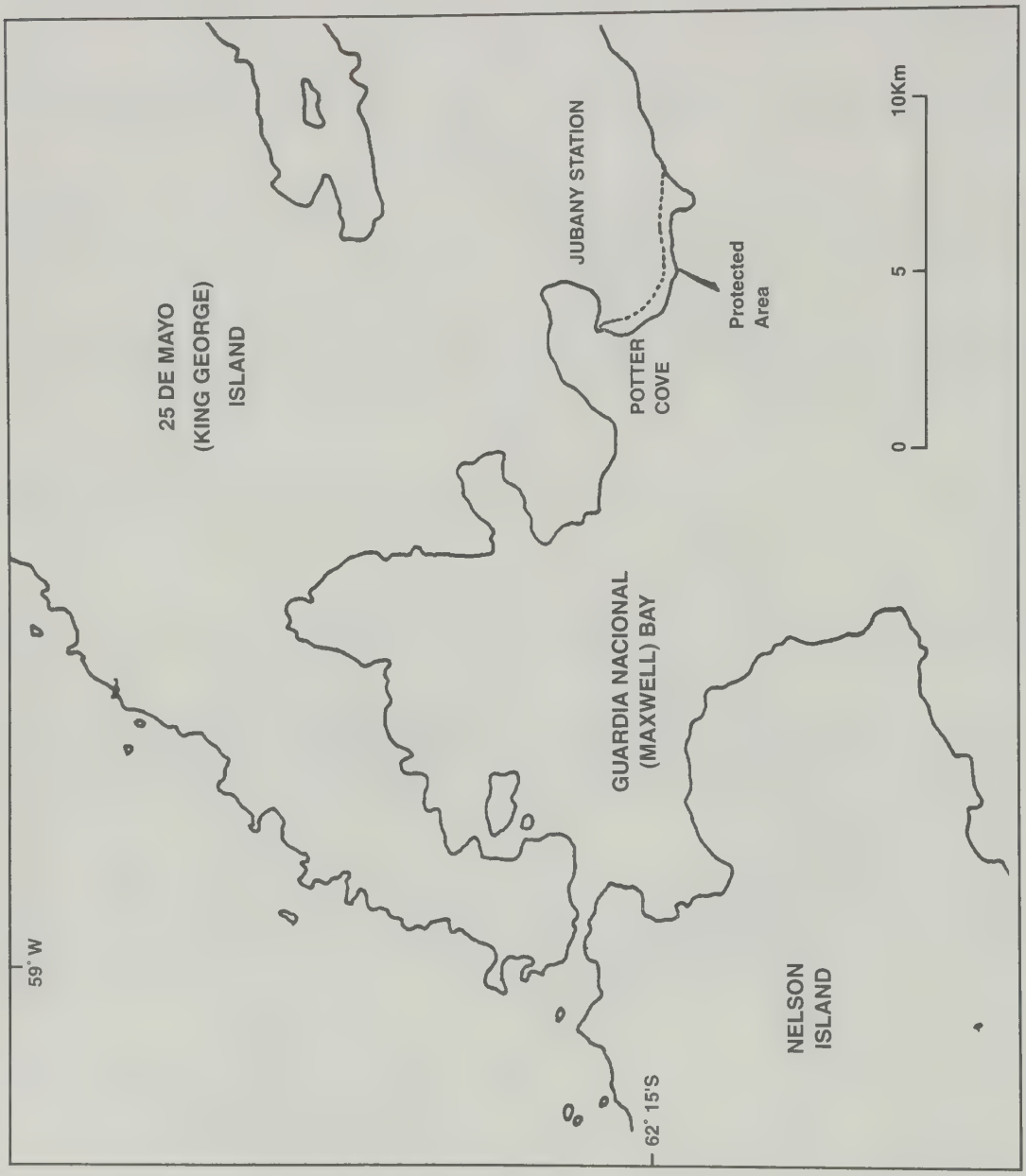
7(viii) Disposal of waste
All non-human wastes shall be removed from the Area to the nearby research station. Human waste may be deposited in the sea.

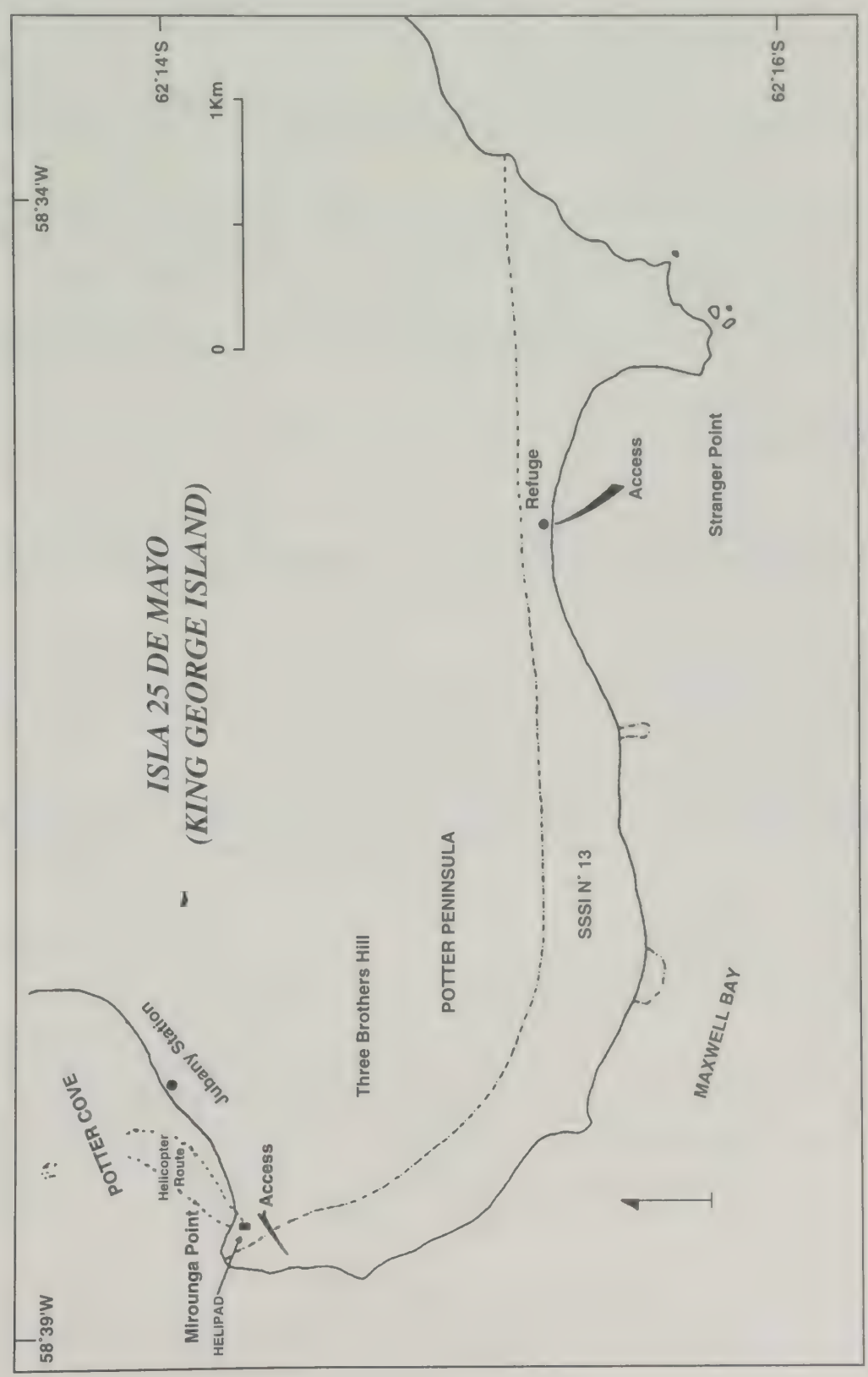
7(ix) Measures that may be necessary to ensure that the aims and objectives of the management plan continue to be met
Permits may be granted to enter the area to carry out biological and ecological studies and monitoring, and site inspection activities, including the collection of small amoungs of plant material and small numbers of animals for scientific purposes, to erect or maintain noticeboards and protective measures.

All scientific structures and instrumentation, including research markers, installed in the Area must be authorised in a permit and clearly identified by country, name of investigator and year of installation. Research markers and structures must be removed at or before the expiry of the Permit. If specific scientific projects cannot be concluded within the permitted time, applications must be made for an extension to leave the items in situ.

7(x) Requirements for reports
The principal permit holder for each issued permit shall submit a report of activities conducted in the Area. This report shall be submitted to the authority named in the Permit as soon as practicable. Such report should be stored indefinitely and made accessible to interested Parties, SCAR, CCAMLR, and COMNAP if requested, to provide the documentation of human activities within the Area necessary for good management.


60° W
50° W
60° S
60° S
SOUTH SHETLAND ISLANDS
Potter Peninsula
70° W
ANTARCTIC PENINSULA
WEDDELL SEA
70° S
ESCALA GRAFICA
Km 100 30 0 100 200 Km
Proyección Estereográfica Polar
70° S
70° W
60° W
50° W


25 DE MAYO
(KING GEORGE)
ISLAND
JUBANY STATION
POTTER
COVE
Protected
Area
0
5
10Km
GUARDIA NACIONAL
(MAXWELL) BAY
NELSON
ISLAND
59° W
62° 15'S


ISLA 25 DE MAYO
(KING GEORGE ISLAND)
58°39'W
58°34'W
62°14'S
62°16'S
0
1Km
POTTER COVE
Jubany Station
Helicopter Route
Mirounga Point
HELIPAD
Access
Three Brothers Hill
POTTER PENINSULA
SSSI N° 13
Refuge
Access
Stranger Point
MAXWELL BAY

Management Plan for Site of Special Scientific Interest (SSSI) No. 14

HARMONY POINT, NELSON ISLAND
SOUTH SHETLAND ISLANDS

1. Description of Values to be Protected

This area was originally designaed as SSSSI No. 14 in ATCM Recommendation XIII-8, after a proposal by Argentina and Chile, because of its diverse seabird community and extensive terrestrial vegetation cover and rich flora including mosses, lichens and two vascular plant species.

Ice free land supports large breeding colonies of 11 seabird species, and one of the largest single colonies of chinstrap penguin. The seabird colonies, and particularly the chinstrap penguin colony, are still important for scientific purposes, and have shown significant increases in the last decade. The Area supports a large giant petrel colony (500 breeding pairs), a species which is highly sensitive to any kind of human disturbance and is decreasing in many sites in Antarctica.

The Area is an excellent example of the South Shetland Islands maritime Antarctic seabird community and terrestrial ecosystem, allowing long term research without damage or interference.

2. Aims and Objectives

Management of Harmony Point aims to:
- Avoid major changes in the structure and composition of communities of flora and fauna;
- Prevent unnecessary human disturbance to the area;
- Permit scientific research which cannot be served elsewhere, and allow the continuity of the ongoing long-term biological and ecological research programmes established in the Area.

3. Management Activities

The following management activities will be undertaken to protect the values of the area:
- A marker board will be placed at the principal access point illustrating the location, boundaries and stating entry restrictions;
- Access to the Area and paths will be marked;
- Preferred walking routes within the Area will be established for transit to sample sites;
- Collection of samples will be limited to the minimum required for authorised scientific research;
- Visits shall be made as necessary to ensure management and maintenance measures are adequate.

4. Period of Designation

Designated for an indefinite period.

5. Maps

Map 1: shows the location of Nelson Island in relation with the Antarctic Peninsula.

Map 2: shows the location of Harmony point on Nelson Island.

Map 3: shows the Protected Area in greater detail.

6. Description of the Area

6(i) Geographical coordinates and natural features of the Area

This Area is located in the west coast of Nelson Island, between 25 de Mayo (King George) Island to the Northeast and Robert Island to the Southwest (lat. 62° 18′ S; 59° 14′ W).

The Area includes Harmony Point and the Toe, the adjacent ice and surrounding marine zone within the rectangle showed on maps 2 and 3.

Geomorphologically Harmony Point presents three well defined units: an andesitic plateau, coastal andesitic outcrops and ancient sea levels (raised beaches). The plateau reaches 40 metres above sea level is its area is covered by detritus resulting from the destruction of andeistic rock by freeze/thaw action, with a well-developed vegetation of mosses and lichens.

Lakes and streams with a limited flow appear on the undulations. Some isolated andesitic rocks stand out from the glacier ice, and some of them are formed on the degalciated plateau (ancient nuntaks), evidencing that the past extension of the glacier covered Harmony Point.

There are three successive raised beaches, between the coast and the westward extremity and the glacier. These beaches are defined by pebble accumulations of variable height.

The Area holds breeding colonies of eleven seabird species: gentoo penguin 4,000 pairs, chinstrap penguin 12,000 pairs, giant petrel 500 pairs, cape petrel 300 pairs, blue eyed shag 110 pairs, sheathbill 110 pairs, brown skua 40 pairs, Dominican gull 120 pairs, Antarctic tern 30 pairs. Other seabirds nesting in the Area are Wilson storm petrel and black-bellied storm petrel.

There are some extensive areas covered by a very rich and diverse development of bryophytes and lichen-dominated plant communities, including two vascular plant species, especially in the areas less affected by recent perturbation or breeding activities. Moss turf subformations are located in wind protected and moist places, whilst lichen-dominated subformations occur in places with a high wind exposure.

6(ii) Restricted zones within the Area
There are no prohibited zones within the Area, but access to bird breeding areas should be restricted during the breeding season (September to March) and damage to vegetation should be avoided by limited access to the marked paths.

6(iii) Location of structures within the Area
There is a refuge measuring 4.5 by 3.5m, that can house three scientists, and a storage building. The installations are used only during spring and summer. There is an Argentine navigation light on the westmost point of Harmony Point.

6(iv) Location of other Protected Areas within close proximity
SPA No. 16, Coppermine Peninsula, Robert Island lies about 30 km southwest. SSSI No. 13 Potter Peninsula, 25 de Mayo (King George) Island lies about 30 km east-north-east. SSSI No. 5, Fildes Peninsula, 25 de Mayo (King George) Island lies about 23km north-north-east. SSSI No. 8, Western Shore of Laserre /Admiralty Bay, 25 de Mayo (King George) Island lies about 45km east-north-east.

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a permit issued by appropriate national authorities.

Conditions for issuing a Permit to enter the Area are that:

- It is issued to continue study of the natural history, biology and ecology of the flora and fauna of the area or for a compelling scientific purpose that cannot be met elsewhere;
- The actions permitted will not jeopardise the natural ecological system in the Area;
- Any management activities are in support of the objectives of the Management Plan;
- The actions permitted are in accordance with this Management Plan;
- The Permit, or authorised copy, must be carried within the Site of Special Scientific Interest;
- A report or reports are supplied to the authority that issued the Permit.

7(i) Access to and movements within the Area
Access to Harmony Point area from the sea, which is the preferred method, is restricted to the pebble beach 400m south-west to the refuge. There is a navigation light located in the westmost point of Harmony Point. Access to the navigation light is by boat from the coast at the south of the light. Special access points are not specified for the Toe, but access is limited to inflatable boats.

Aircraft landing should be avoided where practicable. Small planes could land on the glacier but flights over the Area are not allowed. Helicopters must not overfly any of the major bird breeding areas, and should land only in the vicinity of the refuge or landing beach. Map 3 shows proposed helicopter flight route. It is forbidden to overfly the Area below 250m above the highest point except for access to the landing point specified above.

Pedestrians must use established routes, particularly during the bird breeding season.

Vehicles are prohibited in the area.

7(ii) Activities which are or may be conducted within the Area including restrictions on time and place
Scientific study and monitoring of the populations of flora and fauna in the area and compelling scientific research which cannot be conducted elsewhere and which will not interfere with ongoing long-term research programmes or jeopardise the structure or dynamics of the ecosystem of the Area.

Essential management activities, including monitoring.

7(iii) Installation, modification or removal of structures
No additional structures are to be erected in the Area, or scientific equipment installed, except for essential scientific or management activities, as specified in a Permit.

7(iv) Location of field camps
No additional structures are to be erected in the Area, or scientific equipment installed, except for essential scientific or management activities, as specified in a Permit.

7(v) Restriction on material and organisms which may be brought into the Area
No living animals or plant material shall be deliberately introduced into the Area.

No poultry products, including food products containing uncooked dried eggs, shall be taken into the Area.

No herbicides or pesticides shall be brought into the Area. Any other chemicals, which may be introduced for compelling scientific purpose specified in the permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted.

As far as possible the use of chemicals should be clearly documented for the benefit of later researchers.

Fuel, food and other material are not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All such material introduced are to be removed when no longer required. Permanent depots are not permitted.

7(vi) Taking or harmful interference with native flora and fauna
This is prohibited, except in accordance with a Permit. Where animal taking or harmful intereference is involved this should be in accordance with the SCAR Code of Conduct for Use of Animals for Scientific Purposes in Antarctica, as a minimum standard.

7(vii) Collection or removal of anything not brought into the area by the permit holder
Biological specimens and samples may be collected and/or removed from the Area only according to a permit. Debris of human origin should be removed and reported to the authority that issued the permit. Dead biological specimens may be removed for pathological analysis.

7(viii) Disposal of waste
All non-human waste shall be removed from the Area. Human waste may be deposited in the sea.

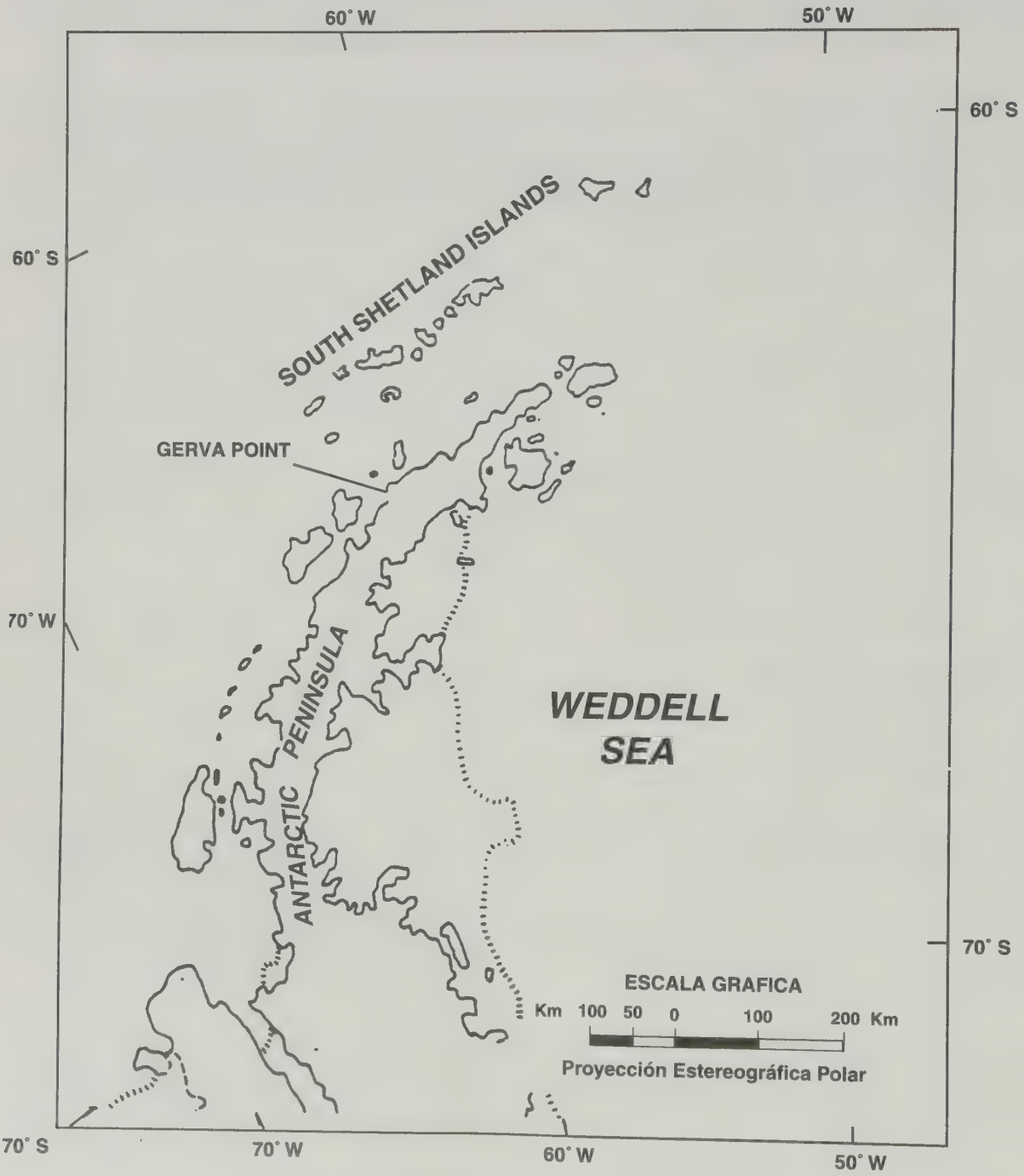
Waste resulting from research activities in the Area may be stored temporarily beside the refuge to await its removal from the Area at the first opportunity. Any such stored waste must be adequately contained, marked as waste and secured against accidental loss.

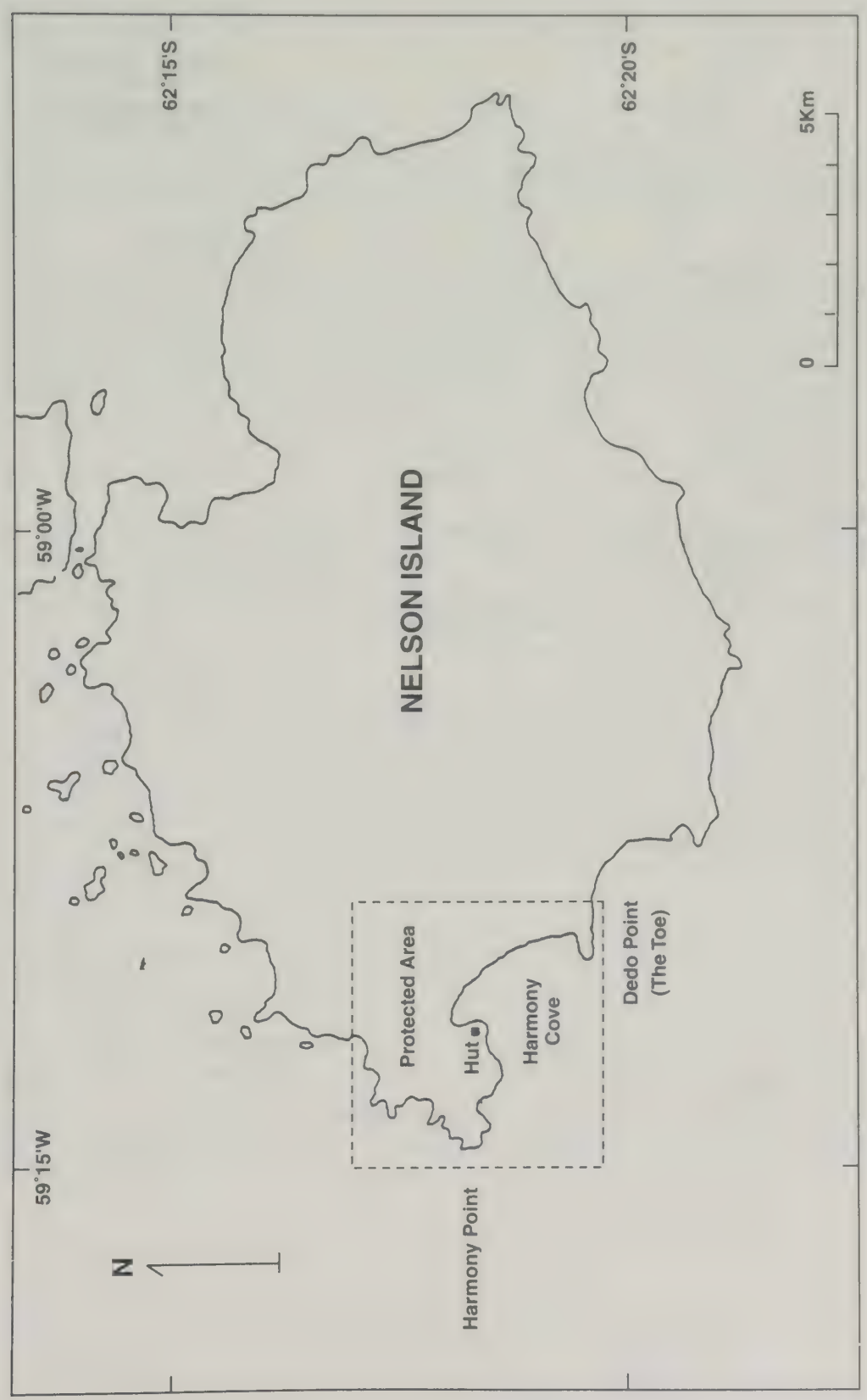
7(ix) Measures that may be necessary to ensure that the aims and objectives of the management plan continue to be met
Permits may be granted to enter the area to carry out biological and ecological studies and monitoring, and site inspection activities, including the collection of small amounts of plant material and small numbers of animals for scientific purposes, to erect or maintain notice boards and protective measures.

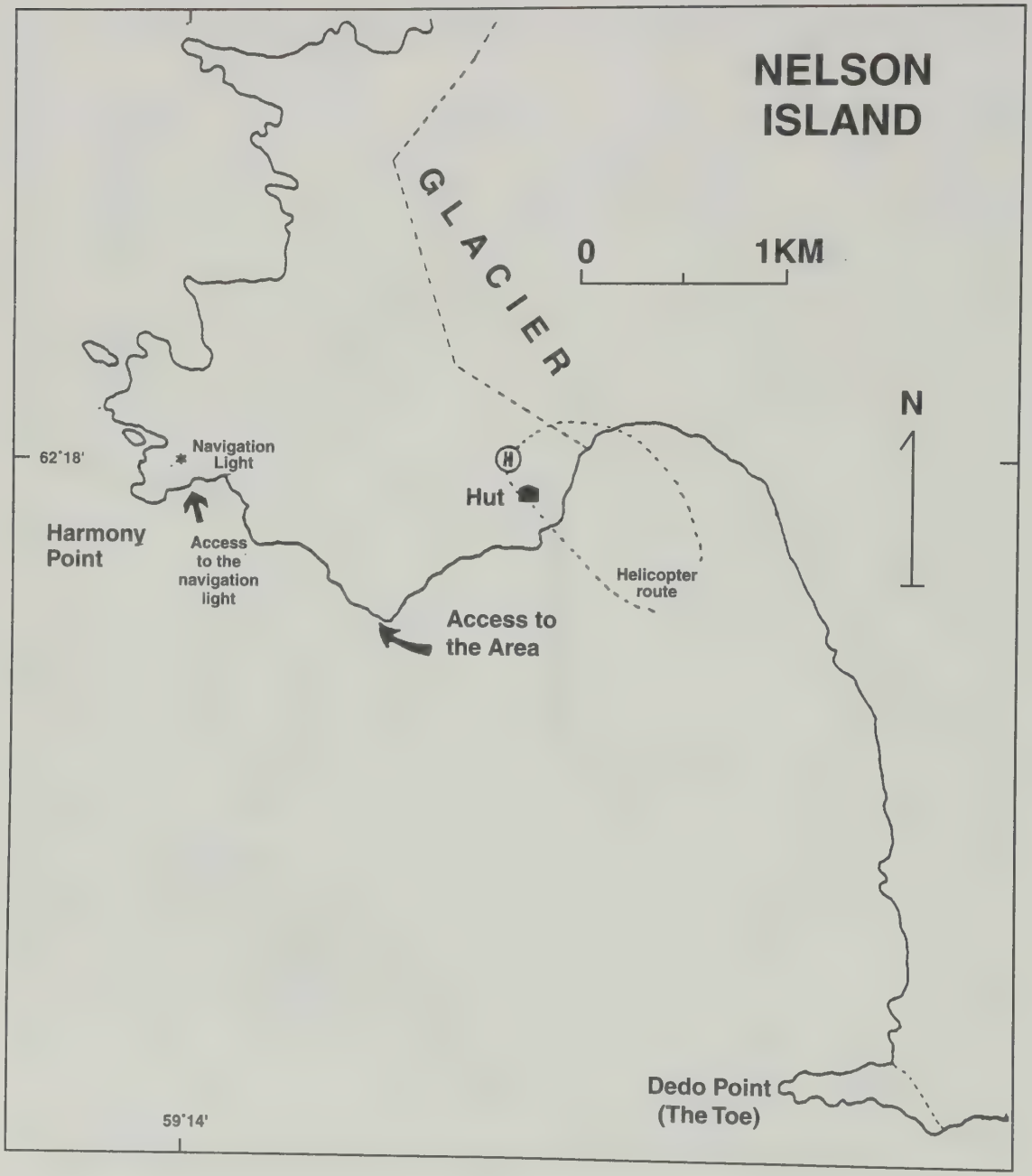
All scientific structures and instrumentaton, including research markers, installed in the Area must be authorised in a permit and clearly identified by country, name of investigator and year of installation. Research markers and structures mujst be removed at or before the expiry of the Permit. If specific scientific projects cannot be concluded within the permitted time, applications must be made for an extension to leave the items in situ.

7(x) Requirements for reports

The principal permit holder for each issued permit shall submit a report of activities conducted in the Area. This report shall be submitted to the authority named in the Permit as soon as practicable. Such reports should be stored indefinitely and made accessible to interested Parties, SCAR, CCAMLR, and COMNAP if requested, to provide the documentation of human activities within the Area necessary for good management.


60° W
50° W
60° S
60° S
SOUTH SHETLAND ISLANDS
GERVA POINT
70° W
ANTARCTIC PENINSULA
WEDDELL SEA
70° S
ESCALA GRAFICA
Km 100 50 0 100 200 Km
Proyección Estereográfica Polar
70° S
70° W
60° W
50° W


62°15'S
62°20'S
59°00'W
59°15'W
NELSON ISLAND
Protected Area
Hut
Harmony Cove
Harmony Point
Dedo Point (The Toe)
N
0
5Km


NELSON
ISLAND
GLACIER
0
1KM
N
62°18'
Navigation
Light
Harmony
Point
Access
to the
navigation
light
H
Hut
Helicopter
route
Access to
the Area
Dedo Point
(The Toe)
59°14'

Management Plan for Site of Special Scientific Interest (SSSI) No 15

CIERVA POINT, DANCO COAST
ANTARCTIC PENINSULA

1. Description of Values to be Protected

This area was originally designated as SSSI No. 15 in ATCM Recommendation XIII-8, after a proposal by Argentina, as an important example of well developed maritime vegetation and having breeding colonies of at least five bird species.

This area has a great scientific value due to the presence of important bird colonies (gentoo penguin, brown skua, blue-eyed shag, snow petrel, Dominican gull), an abundant development of plant cover, and a diverse flora that includes the two Antarctic flowering plant species and some liverworts and an associated invertebrate fauna. Its littoral area possesses abundant tidal pools inhabited by a large number of marine invertebrates. Long-term research programmes on terrestrial ecology and natural variability could be endangered by accidental interference, destruction of vegetation and soil, pollution of rock pools and perturbation of breeding birds.

2. Aims and Objectives

Management of Cierva Point aims to:
- Avoid major changes in the structure and composition of communities of flora and fauna;
- Protect long-term research programmes on terrestrial ecology and natural variability established in the Area;
- Prevent unnecessary human disturbance to the area;
- Utilise the Area as a monitoring site to assess direct and indirect effects of the neighbouring station.

3. Management Activities

The following management activities will be undertaken to protect the values of the area:
- A marker board will be placed at the principal access point illustrating the location boundaries and stating entry restrictions;
- Access to the Area and paths will be marked;
- Priority pedestrian routes within the Area will be established for transit to sample sites;
- Collection of samples will be limited to the minimum required for approved scientific research;
- Visits shall be made as necessary to ensure management and maintenance measures are adequate.

4. Period of Designation

Designated for an indefinite period.

5. Maps

Map 1 shows the location of Cierva Point in relation with the Antarctic Peninsula. Map 2 shows the location of Cierva Point and adjacent islands in relation to Danco Coast. Map 3 shows the area surrounding Primavera Station in detail to indicate access to the Protected Area.

6. Description of the Area

6(i) Geographical co-ordinates and natural features of the Area

Cierva Point (lat. 64° 10′ S, lon. 60° 57′ W) is in the north-west of the Antarctic Peninsula, on the south coast of Cierva Cove, at the north end of Hughes Bay. The site comprises Cierva Point, encompassing the land west on an imaginary line drawn from the southeast of the north side of the Point, through the summit of a flat hill of 540m high, to the southeast of the south side of the Point. Also included are Apéndice Rivera/Sterneck Island, and José Hernández/Bofill/Midas Island and López/Moss Island, which lie mainly between José Hernández/Bofill/Midas

Island and Cierva Point. Although the intertidal zone of each of these areas is included in the Area, the subtidal marine environment is not included.

Base Primavera (Argentina) and all its associated installations and areas of disturbance are excluded from the area.

The plant cover of lichen, moss and grass-dominated communities is very extensive. The dominant plant communities are lichen-dominated fellfield, *Polytrichum-Chorisodontiun* moss turf and *Descampsia-Colobantus* subformation. Areas of more than a hundred square metres off the ground are covered by moss turves, with a peat depth of about 80 cm. This type of habitat allows the establishment of many bird colonies, including gentoo penguins, chinstrap penguins, blue-eyed shags, brown skuas, Wilson's storm petrels, sheathbills and kelp gulls.

6(ii) Restricted zones within the Area
None

6(iii) Location of structures within the Area
There are no vehicular routes, structures or refuges within the Area. Primavera Station (Argentina) located at the north west of the cape, is open in summers. It is composed of eight huts, and a place delimited for helicopter landings.

6(iv) Location of other Protected Areas within close proximity
None

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a permit issued by appropriate national authorities.

Conditions for issuing a Permit to enter the Area are that:
- It is issued to continue study of terrestrial ecology and natural variability of the area or for a compelling scientific purpose that cannot be met elsewhere;
- The actions permitted will not jeopardise the natural ecological system in the Area;
- Any management activities are in support of the objectives of the Management Plan;
- The actions permitted are in accordance with this Management Plan;
- The Permit, or authorised copy, must be carried within the Site of Special Scientific Interest;
- A report or reports are supplied to the authority that issued the Permit.

7(i) Access to and movements within the Area
There is only one access to the Area for helicopters. Helicopters may only land in the specified area ESE of the station. The aircraft route to be used is limited to a north approach and departure. Marine access is allowed to any point for any of the islands. Access will be by permit issued by a component authority and will only be allowed for activities which are in accordance with this management plan. Tourism or any kind of recreational activities are not permitted. Movement within the site should be by designated pedestrian routes. No vehicle access is permitted.

7(ii) Activities which are or may be conducted within the Area including restrictions on time and place
Scientific study and monitoring of the terrestrial ecosystem and natural variability in the area and compelling scientific research which cannot be conducted elsewhere and which will not interfere with ongoing long-term research programmes or jeopardise the structure or dynamics of the ecosystem of the Area.

Essential management activities, including monitoring.

7(iii) Installation, modification or removal of structures
No structures are to be erected in the Area, or scientific equipment installed, except for essential scientific or management activities, as specified in a Permit.

7(iv) Location of field camps
Parties should not normally camp in the Area. If it is essential for safety reasons, tents should be erected having regard to causing the least damage to vegetation and disturbance to fauna.

7(v) Restriction on material and organisms which may be brought into the Area
No living animals or plant material shall be deliberately introduced into the Area.

No poultry products, including food products containing uncooked dried eggs, shall be taken into the Area. No herbicides or pesticides shall be brought into the Area. Any other chemicals, which may be introduced for compelling scientific purpose specified in the permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted.

As far as possible the use of chemicals should be clearly documented for the benefit of later researchers.

Fuel, food and other material are not to be stored in the Area, unless required for essential purposes connected with the activity for which the permit has been granted. All such material introduced are to be removed when no longer required. Permanent depots are not permitted.

7(vi) Taking or harmful interference with native flora and fauna
This is prohibited, except in accordance with a Permit. Where animal taking or harmful interference is involved this should be in accordance with the SCAR Code of Conduct for Use of Animals for Scientific Purposes in Antarctica, as a minimum standard.

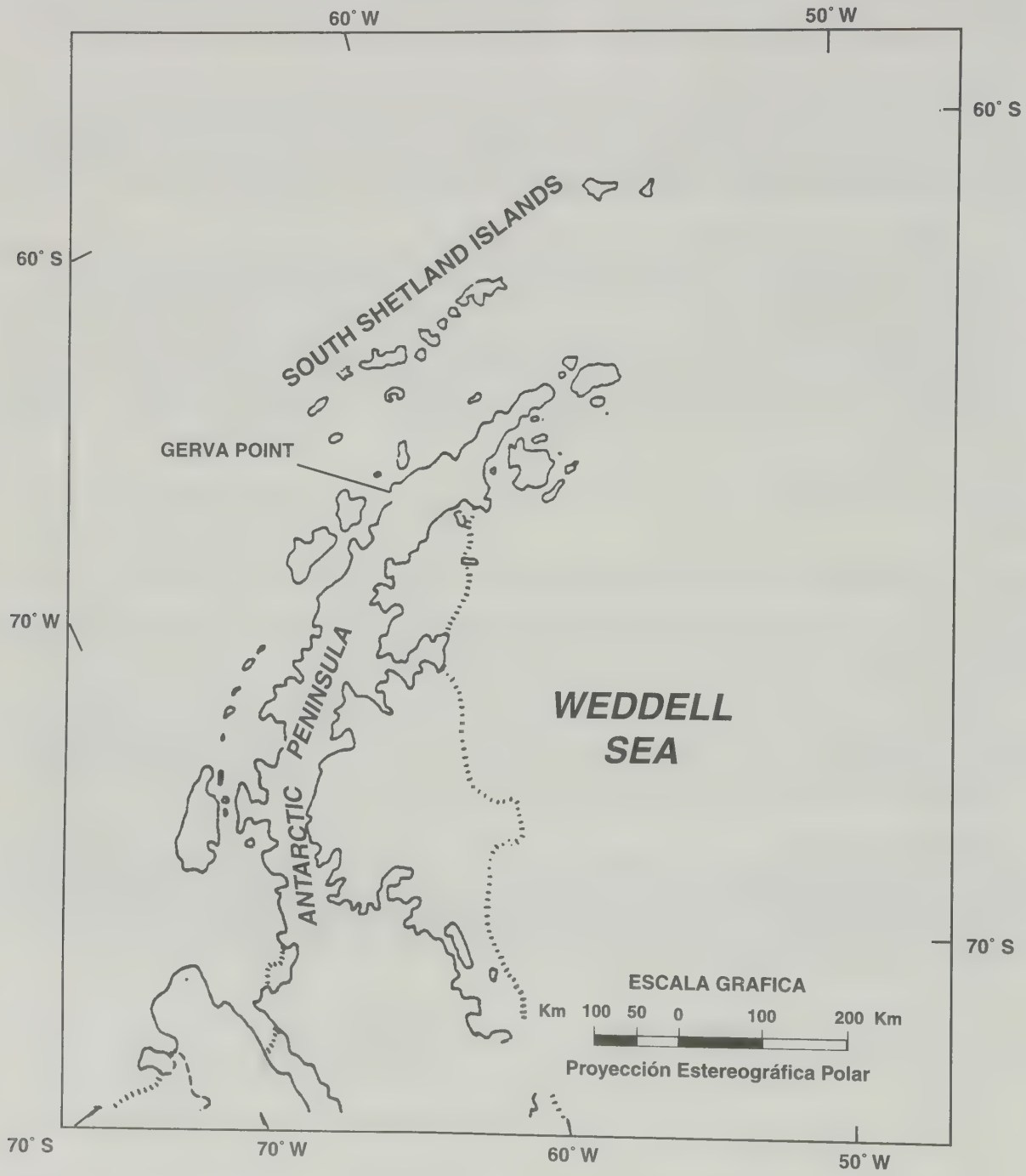
7(vii) Collection or removal of anything not brought into the area by the permit holder
Biological specimens and samples may be collected and/or removed from the Area only according to a permit. Debris of human origin should be removed and reported to the authority that issued the permit. Dead biological specimens may be removed for pathological analysis.

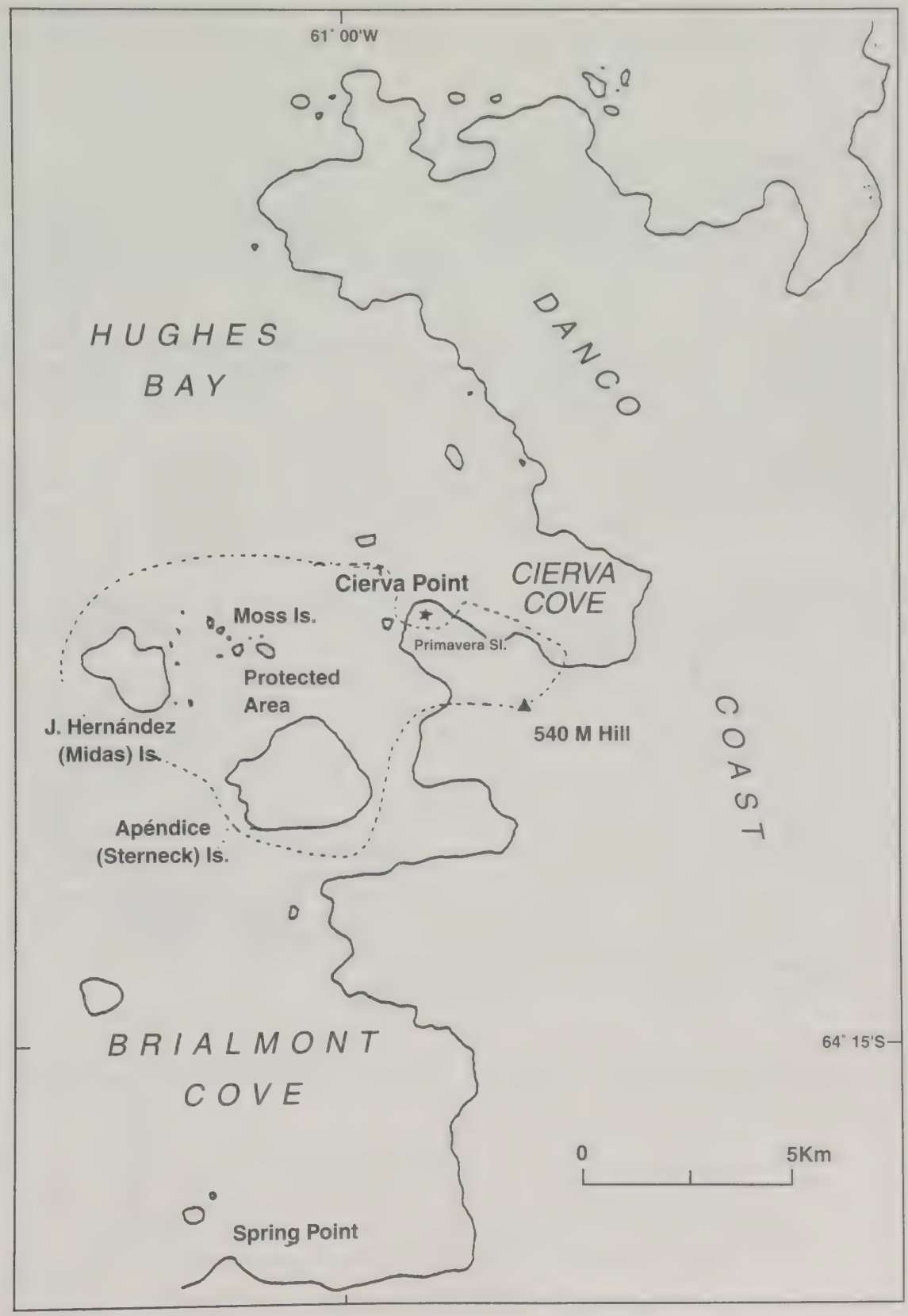
7(viii) Disposal of waste
All non-human wastes shall be removed from the Area to Primavera station. Human waste may be deposited in the sea.

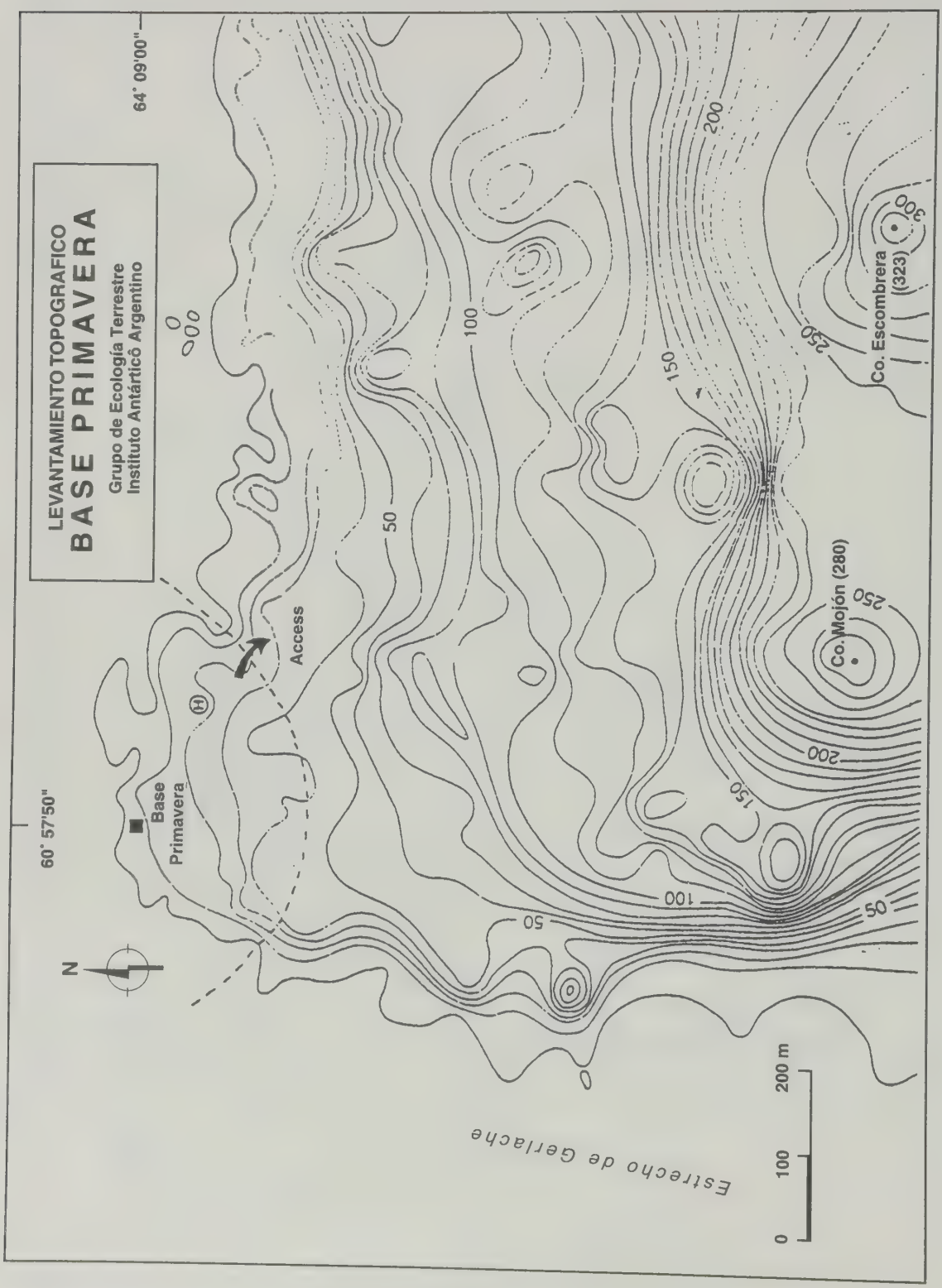
7(ix) Measures that may be necessary to ensure that the aims and objectives of the management plan continue to be met
Permits may be granted to enter the area to carry out biological and ecological studies and monitoring, and site inspection activities, including the collection of small amounts of plant material and small numbers of animals for scientific purposes, to erect or maintain notice boards and protective measures.

All scientific structures and instrumentation, including research markers, installed in the Area must be authorised in a permit and clearly identified by country, name of investigator and year of installation. Research markers and structures must be removed at or before the expiry of the Permit. If specific scientific projects cannot be concluded within the permitted time, applications must be made for an extension to leave the items on site.

7(x) Requirements for reports
The principal permit holder for each issued permit shall submit a report of activities conducted in the Area. This report shall be submitted to the authority named in the Permit as soon as practicable. Such reports should be stored indefinitely and made accessible to interested Parties, SCAR, CCAMLR, and COMNAP if requested, to provide the documentation of human activities within the Area necessary for good management.


60° W
50° W
60° S
60° S
SOUTH SHETLAND ISLANDS
GERVA POINT
70° W
ANTARCTIC PENINSULA
WEDDELL SEA
70° S
ESCALA GRAFICA
Km 100 50 0 100 200 Km
Proyección Estereográfica Polar
70° S
70° W
60° W
50° W


61° 00'W
HUGHES BAY
DANCO COAST
CIERVA COVE
Cierva Point
Moss Is.
Primavera Sl.
Protected Area
J. Hernández (Midas) Is.
540 M Hill
Apéndice (Sterneck) Is.
BRIALMONT COVE
64° 15'S
0
5Km
Spring Point


LEVANTAMIENTO TOPOGRAFICO
BASE PRIMAVERA
Grupo de Ecología Terrestre
Instituto Antártico Argentino
64° 09'00"
60° 57'50"
Base Primavera
Access
Co. Mojón (280)
Co. Escombrera (323)
Estrecho de Gerlache
N
0
100
200 m

Management Plan for Site of Special Scientific Interest (SSSI) No. 37:
BOTANY BAY, CAPE GEOLOGY
VICTORIA LAND

1. Description of Values to be Protected

The Area at Botany Bay and Cape Geology (Granite Harbour, Victoria Land) has been proposed by New Zealand on the grounds that it is an extremely rich botanical refuge for such a high latitude location (162° 34′ 00″ E, 77° 00′ 30″ S), with a lichen and moss species diversity and abundance that is unique for Southern Victoria Land. In addition to a high diversity and abundance of lichens and mosses there are abundant growths of algae, large populations of invertebrates (collembola, mites, nematodes, rotifers) and a colony (in excess of 40 pairs) of South polar skua (*Catharacta maccormicki*). The area is the type locality for the collembolan *Gomphiocephalus hodgsoni* Carpenter.

The structure and development of the moss and lichen communities is similar to that found more than 10° of latitude further north, with several species at their known southern limit. The Area contains the most southerly record of an hepatic (*Cephaloziella exiliflora*). Of great significance is the size (up to 15cm diameter) of some lichen thalli (eg, *Umbilicaria aprina*). The boulder beach has rich populations of both epilithic and endolithic lichens.

In addition to the biological values described, the Area contains the remains of a rock shelter and associated artefacts of historical importance, known as 'Granite House', designated as Historic Site No. 67 in Measure 4 (1995). Constructed by members of the 1910-1913 British Antarctic Expedition, the shelter and associated artefacts are vulnerable to disturbance and are therefore managed as a Managed Zone within the Area, which is subject to access restrictions.

The limited goegraphical extent of the ecosystem, its unusual ecological features and importance, its exceptional scientific and historical value and the vulnerability of the Area to disturbance through trampling, sampling, pollution or alien introductions, are such that the Area requires long-term special protection.

2. Aims and Objectives

- avoid degradation of, or sustantial risk to, the values of the Area by preventing unnecessary human disturbance to the Area;
- allow scientific research on the ecosystem and elements of the ecosystem in particular on lichen and moss species, algae, invertebrates and skuas while ensuring protection from over-sampling;
- allow other scientific research provided it is for compelling reasons which cannot be served elsewhere;
- preserve a part of the natural ecosystem as a reference area for the purpose of future comparative studies;
- minimise the possibility of introduction of alien plants, animals and microbes to the Area;
- allow visits to 'Granite House', but under strict control by Permit;
- allow visits for management purposes in support of the aims of the management plan.

3. Management Activities

The following management activities are to be undertaken to protect the values of the Area:

- Signs showing the location of the Area (stating the special restrictions that apply) shall be displayed prominently, and a copy of this Management Plan shall be kept available, in all of the research hut facilities located within 25 km of the Area;
- Signs illustrating the location, boundaries and clearly stating entry restrictions shall be placed at appropriate locations at the boundaries of the Area and Zones within to help avoid inadvertent entry;
- Markers, signs or structures erected within the Area for scientific or management purposes shall be secured and maintained in good condition;
- Visits shall be made as necessary (no less than once every five years) to assess whether the Area continues to serve the purposes for which it was designated and to ensure management and maintenance measures are adequate;
- National Antarctic Programmes operating in the region shall consult together with a view to ensuring these steps are carried out.

4. Period of Designation

Designated for an indefinite period.

5. Maps and Photographs

Map A: Botany Bay and Cape Geology, protected area topographic map.
Map specifications:
Projection: Lambert conformal conic;
Standard parallels: 1st 79° 20′ 00″S; 2nd 76° 40′ 00″S
Central Meridian: 162° 30′ 00″E Latitude of Origin: 78° 01′ 16.211″S;
Spheroid: WGS84.
Inset 1: Southern Victoria Land, Ross Sea and Ross Island, showing location of Granite Harbour.
Inset 2: Cape Geology location map, and Granite Harbour region.

Map B: Botany Bay and Cape Geology, protected area orthophotograph.
Map specifications are the same as those in Map A. The original orthophotograph was prepared at 1:2500 with a positional accuracy of ±1.25 m (horizontal) and ±2.5 m (vertical) with an on-ground pixel resolution of 0.5 m. Photography: USGS/DoSLI (SN7851) 22 November 1993.

Map C: Managed Zone with 'Granite House' site orthophotograph, derived from Map B. The richest areas of vegetation, sensitive to disturbance, are shown.

6. Description of the Area

6(i) Geographical coordinates, boundary markers and natural features

Cape Geology is situated in the south-western corner of Granite Harbour, southern Victoria Land, at 162°32′52″E, 77°00′14″S, approximately 100 km north-west of Ross Island (Map A, Insets). The Area encompasses much of the catchment above Botany Bay and consists of raised boulder beach terraces, weathered rocky steppes and irregular rock platforms around Cape Geology, extending south to include a well-defined elevated cirque containing a small ice field. The bedrock geology at Cape Geology has been described as a porphyritic grey biotite-granite, with phenocrysts of orthoclase of reddish colour, casting the weathered rock with a reddish tinge.

The northwest corner of the Area is marked by a brass plaque in a boulder (M1, 2 m: Maps A and B) 400 m SW of Cape Geology. The west boundary is defined by a line extending first 260 m SSE from M1 to a large boulder (marked by a cairn) with terrier bolt (M2) at an elevation of 118 m on the ridge above the campsite; thence the boundary extends 250 m up this ridge to a point at 162 m elevation marked by an iron tube with bamboo pole. The west boundary extends a further 300 m up this ridge to a large pointed rock at 255 m elevation near the edge of the permanent ice field. The boundary then extends 150 m south across the ice field to the west edge of a prominent line of exposed rock and moraine in the SW corner of the Area at 325 m elevation. The south boundary follows this line of rock east until the exposure is buried by the ice-field, thence SE across the ice field for 500 m to the edge of a second and more prominent exposure at an elevation of just over 400 m (M3) The boundary follows the upper edge of this exposure and then crosses the ice field SE to an elevation of approximately 325 m where the ice-free eastern boundary ridge and the ice field converge. The east boundary follows the ridge crest for 1550 m in a NE direction to a large pointed rock on the ridge (M4, 392 m) where the east boundary turns to descend due north to the coast at the eastern extremity of the boulder beach of Botany Bay (M5, 5 m). The mean high water mark of the coastline of Botany Bay and Cape Geology forms the northern boundary of the Area.

The Area is extremely rich botanically for such a high-latitude location — it is also one of the richest sites in the whole of continental Antarctica. There is a high diversity and abundance of lichens (more than 30 species) and mosses (eight species), and the structure and development of these communities are similar to those found 10° of latitude further north. Some lichen thalli (e.g. *Umbilicaria aprina*) measure up to 15 cm diameter. The boulder beach has rich populations of both epilithic and endolithic lichens. The Area contains by far the most southerly record of an hepatic (*Cephaloziella exiliflora*) and the mosses *Bryoerythrophyllum recurvirostre* and possibly *Ceratodon purpureus*. There are abundant growths of algae (at least 85 taxa), although the algal flora is not considered particularly unusual for the locality. There are large populations of invertebrates (collembola, mites, nematodes, rotifers) and the area is the type locality for the collembolan *Gomphiocephalus hodgsoni* Carpenter. There is a colony of between 40 – 50 breeding pairs (and numerous non-breeders) of the south polar skua (*Cathar-*

acta maccormicki), which is approximately the same number present in 1911–12. No other bird species are known to breed in the Cape Geology area.

6(ii) Restricted and managed zones within the Area

Restricted Zone: An area directly above Botany Bay is designated a Restricted Zone in order to preserve part of the Area as a reference site for future comparative studies, while the remainder of the Area (which is similar in biology, features and character) is more generally available for research programmes and sample collection. The west boundary of the Restricted Zone is defined by a line from a marker (iron tube in rock, 20 metres from mean high water mark, elevation 8 m) at the west side of Botany Bay (Map A), extending SW for 170 m up to a second iron tube marker on the crest of the adjacent ridge (87 m). This boundary extends 100 m to a third iron tube and a cairn (98 m), thence 50 m to a large flat rock in the centre of the main flush (marked '1' on Maps A and B). The south boundary of the Restricted Zone extends from the flat rock in the flush in a straight line 820 m to the first of two prominent boulders closely adjacent to eachother, approximately in the middle of the ice-free slopes above Botany Bay (marked '2' on Maps A and B at 165 m). The east boundary extends 300 m from there to a large rock at 135 m elevation, thence NE downslope to the NE boundary point (M5, 5 m). The north boundary of the Restricted Zone is the mean high water mark of Botany Bay and is coincident with the north boundary of the Area. Access to the Restricted Zone is allowed only for compelling scientific or management (such as inspection or review) purposes which cannot be served elsewhere in the Area.

Managed Zone: Situated at the coast at the northernmost tip of Cape Geology, a Managed Zone is designated to protect historic artifacts and plant communities within this vicinity, yet also to allow access to the rock shelter known as 'Granite House', which was designated as Historic Site No. 67 in Measure 4 (1995). The Managed Zone is an enclave of approximately 100 m by 80 m that surrounds a rock ridge leading from the coast at Cape Geology to the old shelter. The boundaries are marked on Map C, with the southernmost corner marked by a cairn on a prominent boulder overlooking the rock shelter. The shelter was constructed by members of the 1910-1913 British Antarctic Expedition, and used between December 1911 and January 1912 while the party carried out geological and biological exploration in the vicinity. The structure was built using a natural hollow in the rocks, with walls built up from granite boulders and a roof of seal skins: in December 1993 parts of the walls remained, but while several of the skins were present the roof had collapsed. Access to the Managed Zone may be allowed by Permit, subject to the conditions of this management plan.

6(iii) Structures within and near the Area

The only structures known to exist in the Area are 'Granite House', the boundary survey markers and signposts in appropriate locations.

6(iv) Location of other protected areas within close proximity of the Area

The nearest protected area to Cape Geology is SSSI-3 at Barwick Valley, 50 km distant in a SW direction in the Victoria Land Dry Valleys.

7. Permit Conditions

Entry into the Area is prohibited except in accordance with a Permit issued by appropriate national authorities. Conditions for issuing a Permit to enter the Area are that:

- outside of the Restricted and Managed Zones, it is issued only for scientific study of the ecosystem, or for compelling scientific reasons that cannot be served elsewhere, or for essential management purposes consistent with plan objectives such as inspection or review;
- access to the Restricted Zone is allowed only for compelling scientific or management reasons that cannot be served elsewhere in the Area;
- access to the Managed Zone may be permitted for scientific, management, historical, educational or recreational purposes;
- the actions permitted will not jeopardise the ecological, scientific or historic values of the Area;
- any management activities are in support of the objectives of the Management Plan;
- the actions permitted are in accordance with the Management Plan;
- the Permit, or an authorized copy, shall be carried within the Area;
- a visit report shall be supplied to the authority named in the Permit;
- permits shall be issued for a stated period.

7(i) Access to and movement within the Area

Vehicles are prohibited within the Area and access should be by foot. Helicopters are normally prohibited from landing within the Area: there is a designated site 60 m outside of the Area (162° 31′ 55″ E, 77° 00′ 19″ S: Map

A). Access to the landing site should be from the open water / sea ice to the north of the Area. Overflight of the Area lower than 300 m (~1000 ft) above ground level is normally prohibited. When required for essential scientific or management purposes, transient overflight or landing may be allowed: conduct of such anticipated overflights or landings must be specifically authorised by Permit. Use of helicopter smoke grenades within the Area is prohibited unless necessary for safety, and all grenades should be retrieved. All helicopter landing or overflight lower than 300 m AGL is prohibited within the Restricted Zone.

Access into the Area should preferably be from the recommended camping area along a preferred walking route 10–20 m from the coast, which is relatively devoid of vegetation. Visitors should avoid walking on visible vegetation, or unnecessary disturbance to bird populations. Care should be exercised walking in areas of moist ground, where foot traffic can easily damage sensitive soils, plant and algal communities, and degrade water quality: walk around such areas, on ice or rocky ground. Pedestrian traffic should be kept to the minimum necessary consistent with the objectives of any permitted activities and every reasonable effort should be made to minimise effects.

Access to the Managed Zone should preferably be from the coast, following the ridge leading up to 'Granite House' (Map C). An alternative route may be used from the west of the Managed Zone if sea-ice travel is unsafe (Maps A –C). Unless specifically authorised by Permit, visitors are prohibited from entering the historic shelter, and are limited to access and viewing from the rock ridge designated for access from the coast in order to prevent damage to the rich vegetation within the Managed Zone. Visitors shall not venture south of 'Granite House', unless specifically authorised by Permit. A maximum of 10 people is permitted to enter the Managed Zone at any one time, and a maximum of 5 people is allowed in the viewing area overlooking 'Granite House' at any one time (Map C).

7(ii) Activities that are or may be conducted in the Area, including restrictions on time or place

- scientific research that will not jeopardise the ecosystem of the Area;
- essential management activities, including monitoring;
- limited visits to the Managed Zone for reasons other than science or management subject to the conditions described in this plan;
- activities with the aim of preserving or protecting the historic resources within the Area.

7(iii) Installation, modification or removal of structures

No structures are to be erected within the Area except as specified in a Permit. All scientific equipment installed in the Area must be authorised by Permit and clearly identified by country, name of the principal investigator and year of installation. All such items should be made of materials that pose minimal risk of contamination of the Area. Removal of specific equipment for which the Permit has expired shall a condition of the Permit.

7(iv) Location of field camps

Camping within the Area is prohibited and should be at a site outside of the Area, 100 m from the NW corner (Map A), adjacent to the designated helicopter landing site. This camping site has been disturbed by previous activities and visitors should reoccupy these disturbed positions for tents and other facilities.

7(v) Restrictions on materials and organisms which can be brought into the Area

No living animals, plant material or microorganisms shall be deliberately introduced into the Area and precautions shall be taken against accidental introductions. No herbicides or pesticides shall be brought into the Area. Any other chemicals, including radio-nuclides or stable isotopes, which may be introduced for scientific or management purposes specified in the Permit, shall be removed from the Area at or before the conclusion of the activity for which the Permit was granted. Fuel is not to be stored in the Area, unless required for essential purposes connected with the activity for which the Permit has been granted. All materials introduced shall be for a stated period only, shall be removed at or before the conclusion of that stated period, and shall be stored and handled so that risk of their introduction into the environment is minimised.

7(vi) Taking or harmful interference with native flora or fauna

This is prohibited, except in accordance with a Permit. Where animal taking or harmful interference is involved this should, as a minimum standard, be in accordance with the SCAR Code of Conduct for the Use of Animals for Scientific Purposes in Antarctica.

7(vii) Collection or removal of anything not brought into the Area by the Permit holder

Material may be collected or removed from the Area only in accordance with a Permit and should be limited to the minimum necessary to meet scientific or management needs. Material of human origin likely to compromise the values of the Area, which was not brought into the Area by the Permit Holder or otherwise authorised, may be removed unless the impact of removal is likely to be greater than leaving the material *in situ* : if this is the case the appropriate authority should be notified.

Unless specifically authorised by Permit, visitors are prohibited from interfering with or attempting restoration of 'Granite House' in any way, or from handling, taking or damaging any artifacts found within the Managed Zone. Evidence of recent changes, damage or new artifacts observed should be notified to the appropriate national authority. Relocation or removal of artifacts for the purposes of preservation, protection or to re-establish historical accuracy is allowable by Permit.

7(viii) Disposal of waste

All wastes, including all human wastes, shall be removed from the Area.

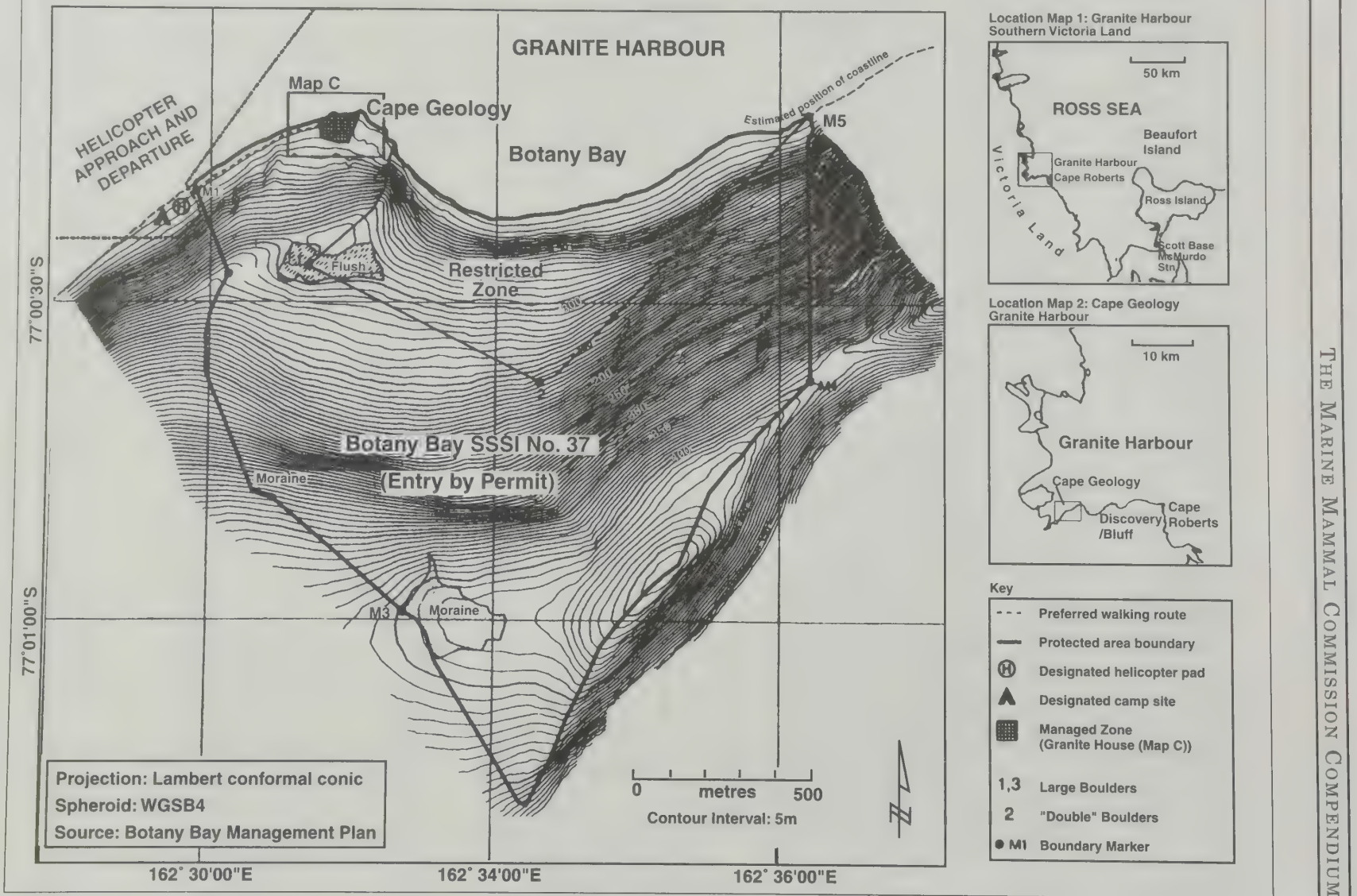
7(ix) Measures that are necessary to ensure that the aims and objectives of the Management Plan can continue to be met

1. Permits may be granted to enter the Area to carry out biological monitoring and site inspection activities, which may involve the collection of small samples for analysis or review, to erect or maintain signposts, or for management activities, especially those associated with the Historic Site.
2. Any specific sites of long-term monitoring shall be appropriately marked.
3. To help maintain the ecological and scientific values of the isolation and relatively low level of human impact at the Area visitors shall take special precautions against introductions. Of particular concern are microbial or vegetation introductions sourced from soils at other Antarctic sites, including stations, or from regions outside Antarctica. To minimise the risk of introductions, visitors shall thoroughly clean footwear and any equipment to be used in the area — particularly sampling equipment and markers — before entering the Area.

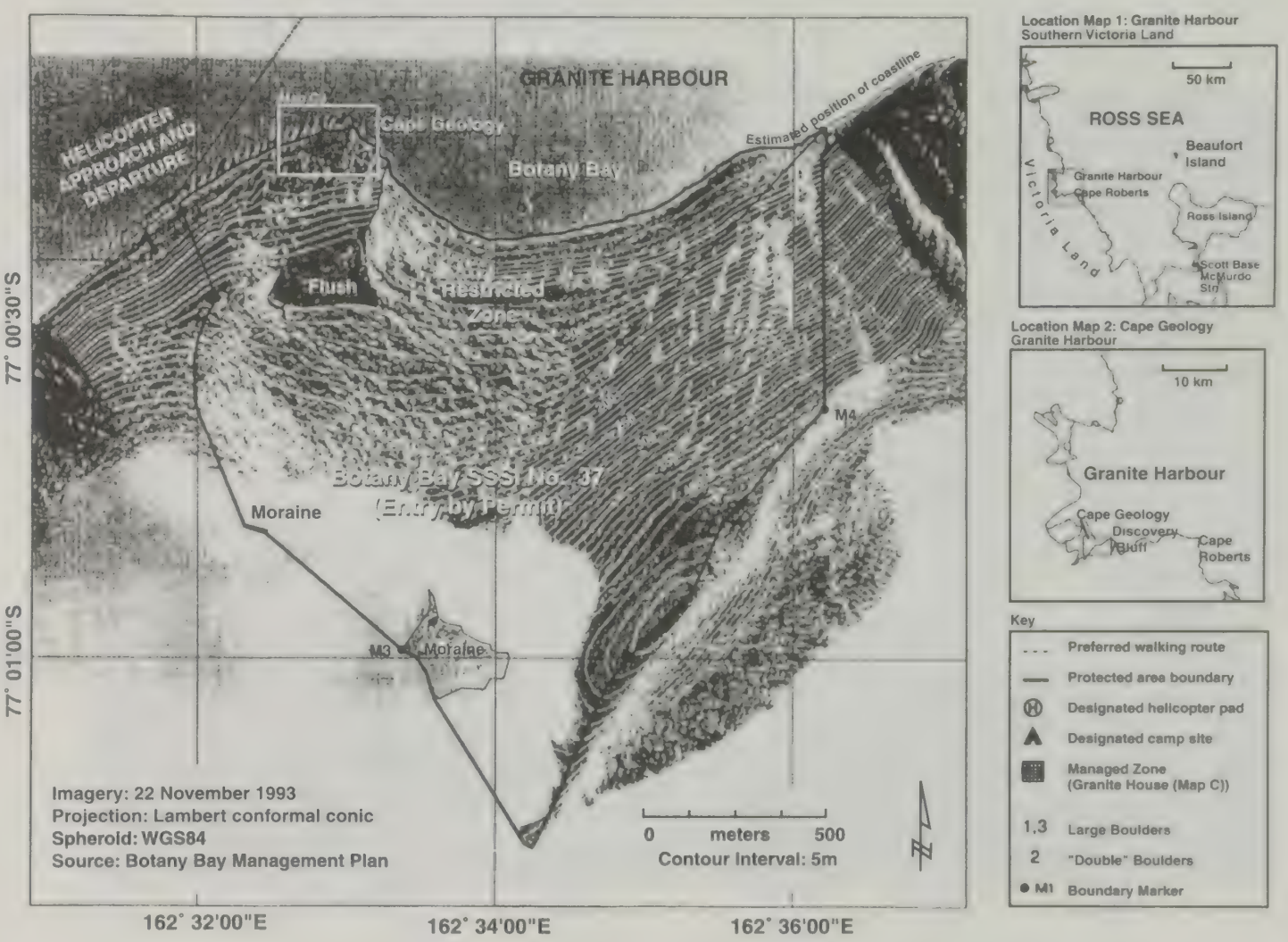
7(x) Requirements for reports

Parties should ensure that the principal holder for each permit issued submit to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, which should be in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should, wherever possible, deposit originals or copies of such original reports in a publicly accessible archive to maintain a record of usage, to be used both in any review of the management plan and in organising the scientific use of the Area.

Map A Botany Bay Site of Special Scientific Interest No 37, site topographic map



Map B Botany Bay, Site of Special Scientific Interest No. 37, site orthophotograph



Map C – Botany Bay, Site of Special Scientific Interest No. 37, Managed Zone orthophotograph



Tramway Ridge Site of Special Scientific Interest (SSSI) No. 11
Proposed Change to Restricted Zone

1. Introduction

A new management plan for Tramway Ridge (SSSI No. 11) was adopted by the XIX ATCM in Seoul in 1995 (Measure 2). This site contains a "Restricted Zone", where access is prohibited until agreed otherwise by a review of the management plan.

When preparing a new management plan for Botany Bay, Cape Geology, Victoria Land, New Zealand faced a question over terminology in attempting to describe a "Restricted Zone" proposed for the area. The science community supported controls on access to the proposed "Restricted Zone" at Botany Bay but favoured access to proposed zone to be "restricted" and not "prohibited", as at Tramway Ridge. The justification for allowing access was the presence of a liverwort within the zone that scientists did not want to place completely off-limits until a management plan review.

The access policy for the "Restricted Zone" proposed for Cape Geology would therefore be inconsistent with the "Restricted Zone" policy now adopted for Tramway Ridge. New Zealand is concerned that as far as possible Consultative Parties should attempt to achieve consistency in policy for zones of the same name within Antarctic protected areas.

2. A Prohibited Zone at Tramway Ridge SSSI No. 11

One possible way to achieve consistency is to change the name of the "Restricted Zone" on Tramway Ridge to a "Prohibited Zone" and to proceed with the proposal to call the zone for Botany Bay a "Restricted Zone". This proposed change in terminology would more accurately reflect the actual level of restriction /prohibition that applies, given that access to the "Restricted Zone" at Tramway Ridge is already strictly prohibited in order to preserve the northern half of the area as a reference site for future comparative studies.

New Zealand noted that the Protocol on Environmental Protection to the Antarctic Treaty provides for "prohibiting" in Antarctica, and within protected areas specifically. Annex V, Article 5.3(f) provides for the "identification of zones within the area, in which activities are to be prohibited, restricted, or managed for the purpose of achieving the aims and objectives" of the management plan. In this, the Protocol makes a specific distinction between "restricted" and "prohibited".

In June 1996, the SCAR Group of Specialists on Environmental Affairs and Conservation (GOSEAC) considered the question of zoning terminology GOSEAC concluded that the use of the terms "Prohibited Zone" and "Restricted Zone" under Annex V would be appropriate from a scientific, technical and environmental standpoint.

3. Conclusion

In view of these points, New Zealand considers that it would be appropriate to change the management plan for SSSI No. 11 at Tramway Ridge, Mt Erebus, so that the current designation of the "Restricted Zone" be changed to "Prohibited Zone".

MEASURE 4 (1997)

Antarctic Protected Areas System: Historic Sites and Monuments:
Memorial Cross, Lewis Bay, Ross Island.

The Representatives,

Recalling in particular Recommendation XI-3;

And also Recommendations 1-9, V-4, VI-14, VII-9, XIII-7, XIII-16, XIV-8;

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article 9 of the Antarctic Treaty to add the following historic monument to the List of Historic Monuments Identified and Described by the Proposing Government or Governments annexed to Recommendation VII-9, thereby guaranteeing its full protection and respect as envisaged by the Recommendation noted above.

Memorial Cross for the 1979 Mount Erebus Crash Victims, Lewis Bay, Ross Island.

A cross of stainless steel which was erected in January 1987 on a rocky promontory three kilometres from the Mount Erebus crash site in memory of the 257 people of different nationalities who lost their lives when the aircraft in which they were travelling crashed into the lower slopes of Mount Erebus, Ross Island. The Cross was erected as a mark of respect and in remembrance of those who died in this tragedy.

MEASURE 5 (1997)

Antarctic Protected Areas System: Historic Sites and Monuments:
Amendment Number 41: Stone Hut on Paulet Island

The Representatives,

Recalling the Measures adopted in Recommendations I-IX, V-4, VI-14, VII-9; and Resolution 8 (1995);

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

That an amendment of the description of Historic Site Number 41, which is contained in the List of Historic Monuments and Described by the proposing Government or Governments annexed to Recommendation VII-9, be approved.

Amendment to Listing:

Site Number 41: Stone Hut on Paulet Island.

The following text should be added to the final part of the paragraph;

...and the rock cairn built by the survivors of the wreck at the highest point of the island to draw the attention of rescue expeditions.

Measures Approved or Recommended Under Article IX in Furtherance of the Principles and Objectives of the Antarctic Treaty of 1 December 1959, Tromsø, 1998

Done at Tromsø 5 June 1998

Entered into force (not in force)

Depositary: United States of America

Primary Source Citation: Copy of text provided by the U.S. Department of State

MEASURE 1 (1998)

Antarctic Protected Areas System: Management Plans for Specially Protected Areas

Number 27: Cape Royds Historic Site and its environs (Appendix A)
Number 28: Hut Point Historic Site (Appendix B)
Number 29: Cape Adare Historic Site and its environs (Appendix C)

The Representatives,

Recalling Recommendations XV-8 and XV-9;

Noting that Management Plans for the above Areas have been endorsed by the Scientific Committee on Antarctic Research (SCAR);

Noting also that the format of the Management Plans accord with Article 5 of Annex V of the Protocol on Environmental Protection to the Antarctic Treaty adopted under Recommendation XVI-10;

Recognising that these Areas have outstanding historic significance which require long-term protection to ensure that their values are maintained, and to avoid undue human disturbance;

Agreeing that pending entry into force of Annex V, proposals to designate and adopt management plans for the protection of particular historic values should be viewed as proposals for the designation of Specially Protected Areas (SPAs) in accordance with the Agreed Measures for the Conservation of Antarctic Flora and Fauna;

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

> That the Management Plans for the Cape Royds Historic Site and its environs (SPA No 27), the Hut Point Historic Site (SPA No 28) and the Cape Adare Historic Site and its environs (SPA No 29) annexed to this Measure be adopted.

Appendix A

Management Plan for Specially Protected Area (SPA No 27) for Historic Site No. 15

(containing the historic hut of Sir Ernest Shackleton and its precincts)

BACKDOOR BAY, CAPE ROYDS, ROSS ISLAND

(Lat, 778 33' 10.7"5, Long. 1668 10' 6.5"E)

1 Description of Values to be Protected

This site was originally listed as Historic Site 15 in ATCM Recommendation VII-9 proposed by New Zealand.

The hut on which this Area is centred was built in February 1908 by the British Antarctic (*Nimrod*) Expedition of 1907-1909 which was led by Sir Ernest Shackleton. It was also periodically used by the Ross Sea Party of Shackleton's Imperial Trans-Antarctic Expedition of 1914-1917.

Structures associated with the hut include stables, kennels, a latrine and a garage created for the first motor vehicle in Antarctica. Other significant relics in the Area include an instrument shelter, supply depots, and a rubbish site. Numerous additional artefacts are distributed around the Area.

Cape Royds is one of the principal areas of early human activity in Antarctica. It is an important symbol of the Heroic Age of Antarctic exploration and, as such, has considerable historical and cultural significance. Some of the earliest advances in the study of earth sciences, meteorology, flora and fauna in Antarctica are associated with the *Nimrod* Expedition which was based at this site. The history of these activities and the contribution they have made to the understanding and awareness of Antarctica give this Area significant scientific, technical, architectural, aesthetic and social values.

2 Aims and Objectives

The aim of the management plan is to provide protection for the Area and its features so that its values can be preserved. The objectives of the Plan are to:

- avoid degradation of, or substantial risk to, the values of the Area;
- maintain the historic values of the Area through planned restoration and conservation work which may include;
  a. an annual 'on-site' maintenance programme
  b. a programme of monitoring the condition of artefacts and structures, and the factors which affect them
  c. a programme of conservation of artefacts conducted on and off site;
- allow management activities which support the protection of the values and features of the Area including;
  a. mapping and otherwise recording the disposition of historic items in the hut environs
  b. recording other relevant historic data.
- prevent unnecessary human disturbance to the Area, its features and artefacts through managed access to the *Nimrod* hut.

3 Management Activities

- A regular programme of restoration and preservation work shall be undertaken on the Nimrod hut and associated artefacts in the Area.
- Visits shall be made as necessary for management purposes.
- Control of the number of visitors.
- National Antarctic Programmes operating in, or those with an interest in, the region shall consult

together with a view to ensuring the above provisions are implemented.

4 Period of designation

Designated under Measure X(1998) for an indefinite period.

5 Maps

Map A: Cape Royds regional map. This map shows the location of the Area in relation to the existing SSSI No. 1 and significant topographic features in the vicinity. Inset: shows the position of the site in relation to other protected sites on Ross Island.

Map B: Cape Royds Area map. This map shows the boundaries of the Area and the adjacent SSSI No. 1. Also shown are the approaches, field camp and helicopter landing sites.

6 Description of the Area

6(i) Geographical coordinates, boundary markers and natural features
Cape Royds is an ice free area at the western extremity of Ross Island, approximately 40 kilometres to the south of Cape Bird and 35 kilometres to the north of Hut Point Peninsula on Ross Island. The ice free area is composed of till covered basalt bedrock. The designated Area is located to the north east of Cape Royds adjacent to Backdoor Bay. It is immediately to the east of the existing SSSI No. 1, an Adélie penguin rookery. The Area is centred on Shackleton's *Nimrod* expedition hut.

The boundaries of the proposed Area are:

- South and East. by the shoreline of the eastern coast of Cape Royds including Arrival and Backdoor Bays.
- West. by a line following the boundary of SSSI No. 1, from the coastline to Pony Lake and then by a line following the eastern shore of Pony lake to its northern extremity.
- North / west, by a line extending from the northern extremity of Pony Lake along a gully leading to a point at 77° 33' 7.5" S, 166° 10' 13" E.
- North, by a line extended due east from a point at 77° 33' 7.5" S, 166° 10' 13" E to the coastline of Backdoor Bay.

A major feature of the Area is Shackleton's *Nimrod* expedition hut located in a sheltered basin. The hut is surrounded by many other historic relics including an instrument shelter, supply depots, and a dump site. Numerous additional artefacts are distributed around the site.

Adélie penguins *(Pygoscelis adeliae)* from the adjacent rookery at Cape Royds often transit the Area. Skuas *(Catharacta maccormicki)* nest in the vicinity.

6(ii) Restricted zones within the Area
None.

6(iii) Structures within the Area
Apart from a Treaty plaque all structures within the Area are of historic origin.

6(iv) Location of other Protected Areas within close proximity
SSSI No 1 Cape Royds is immediately adjacent to this Area. SSSI No 2 Arrival Heights, Hut Peninsula is 32 kilometres south of Cape Royds; and SSSI No 11 Tramway Ridge is 20 kilometres east of Cape Royds. SSSI No 10, New College Valley, and SPA No 20, Caughley Beach are located 35 kilometres north in the vicinity of Cape Bird. SPA No. 25, Cape Evans is 12 kilometres south, and SPA No. 26, Lewis Bay is 36 kilometres to the north east. All sites are located on Ross Island.

7 Permit Conditions

Entry to the Area is prohibited except in accordance with a permit.

Permits shall be issued only by appropriate national authorities and may contain both general and specific conditions. A permit may be issued by a national authority to cover a number of visits in a season. Parties operating in the Ross Sea Area shall consult together and with groups and organisations interested in visiting the Area to ensure that visitor numbers are not exceeded.

General conditions for issuing a permit may include:

- activities related to preservation, maintenance, research and/or monitoring purposes;
- management activities in support of the objectives of this plan;
- activities related to tourism, educational or recreational activities providing they do not conflict with the objectives of this plan;
- the permit should be valid for stated period;
- a copy of the permit must be carried within the Area.

7(i) Access to and movement within the Area

Control of movement within the Area is necessary to prevent damage caused by crowding around the many vulnerable features within the Area. The maximum number in the Area at any time (including those within the hut) is: **40 people**

Control of numbers within the hut is necessary to prevent damage caused by crowding around the many vulnerable features within the hut. The maximum number within the hut at any time (including guides) is: **8 people**

Avoidance of cumulative impacts on the interior of the hut require an annual limit on visitor numbers. The effects of current visitor levels (approximately 1,000 per calendar year) suggest that an increase of more than 100% could cause significant adverse impacts. The annual maximum number of visitors is: **2000 people**

These limits have been based on current visitor levels and on the best advice available from conservation advisory agencies (which include conservators, archaeologists, historians, museologists and other heritage protection professionals). The limits are based on the proposition that any significant increase in the current level of visitors would be detrimental to the values to be protected. An ongoing monitoring programme of the effect of visitors is in place. This will provide the basis for future review of the management plan, in particular whether the current annual maximum number of visitors to the area is appropriate. This could result in the annual maximum number either increasing or decreasing.

Helicopter landings are prohibited within the Area as they have the potential to damage the site by blowing scoria and ice particles and to accelerate the abrasion of the hut and surrounding artefacts. Landings may be made at the designated landing sites (see Map B.). One site is approximately 50 metres to the north of the New Zealand shelter, outside the Area. A further designated site is located 100 metres further north east.

Vehicles are prohibited within the Area. Landings from the sea by boat, or vehicle traveling on the sea ice, may be made by approaching from Backdoor Bay.

7(ii) Activities which may be conducted within the Area

Activities which may be conducted within the Area includes:

- visits for restoration, preservation and/or protection;
- educational and/or recreational visits including tourism;
- scientific activity which does not detract from the values of the Area.

7(iii) Installation, modification and removal of structures

No new structures are to be erected in the Area, or scientific equipment installed, except for conservation or scientific activities that do not detract from the values of the Area as specified in 1. No historic structure relic or artefact shall be removed from the Area, except for the purposes of restoration and or preservation and then only in accordance with a permit.

7(iv) Location of field camps
Use of the historic hut for living purposes is not permitted. Camping is prohibited within the Area. An existing field camp site and a New Zealand shelter is located at the north western boundary of the Area (see Map B).

7(v) Restrictions on materials and organisms which may be brought into the Area
No living animals or plant material shall be introduced to the Area.

No food products shall be taken into the Area.

Chemicals which may be introduced for management purposes shall be removed at or before the conclusion of the activity for which they are required.

Fuel or other materials are not to be left in depots in the Area, unless required for essential purposes connected with the preservation and conservation of the historic structures or the associated relics. All such materials are to be removed when no longer required.

Use of combustion type lanterns is not permitted in the hut under any circumstances.

Smoking in the Area is not permitted.

7(vi) Taking or harmful interference with native flora and fauna
This activity is prohibited except in accordance with a separate permit issued by the appropriate national authority specifically for that purpose.

7(vii) Collection of anything not introduced by a visitor
Material may be collected and removed from the Area only for restoration, preservation or protection purposes, or scientific reasons consistent with the objectives of this plan, and only in accordance with a separate permit issued by the appropriate national authority specifically for that purpose.

Visitors must remove objects, substances and waste introduced by them during their time in the Area.

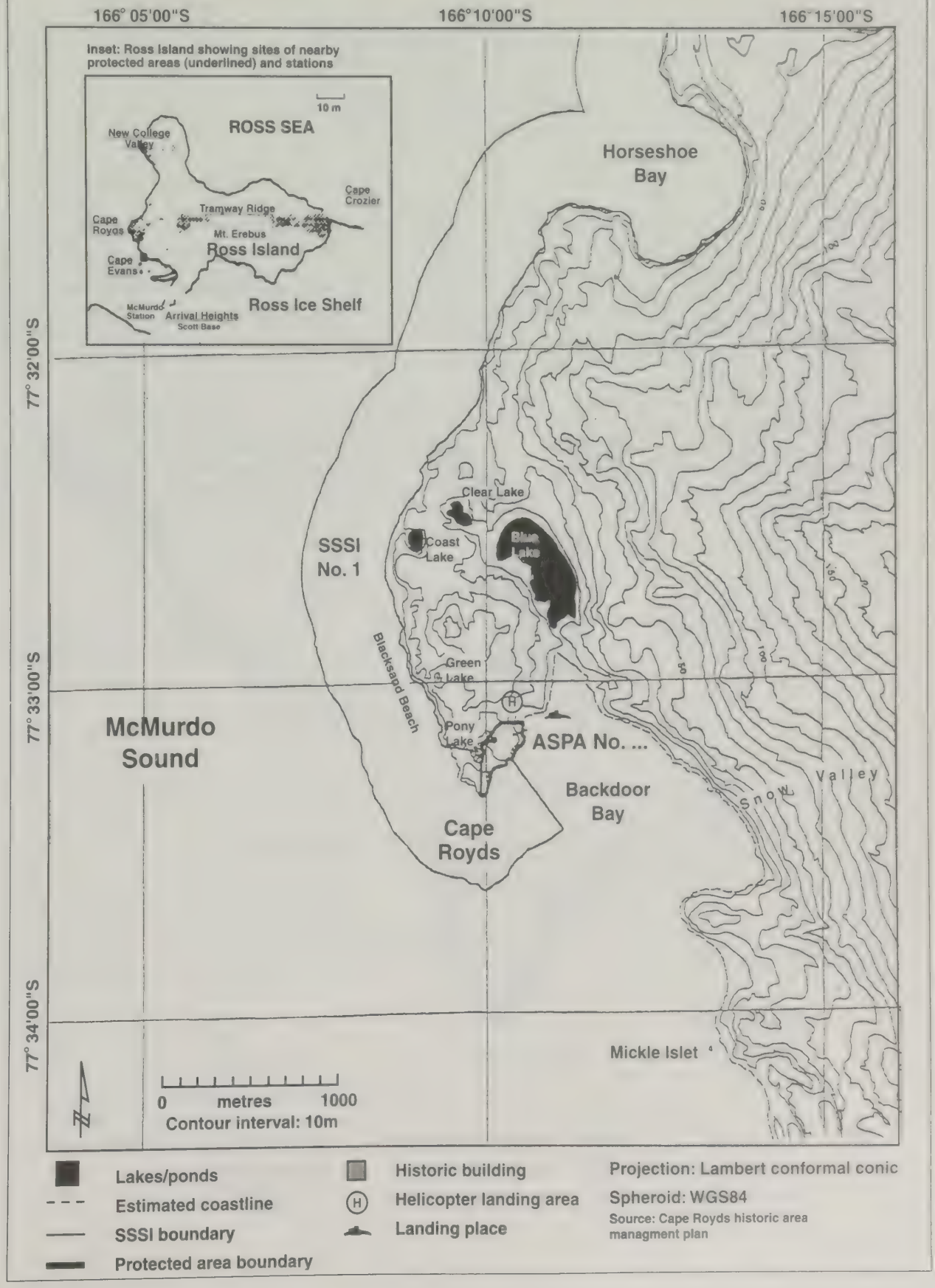
7(viii) Disposal of waste
All waste generated by work parties or visitors shall be removed from the Area.

7(ix) Measures that may be necessary to ensure that the aims and objectives of the plan continue to be met
The provision of information for visitors.

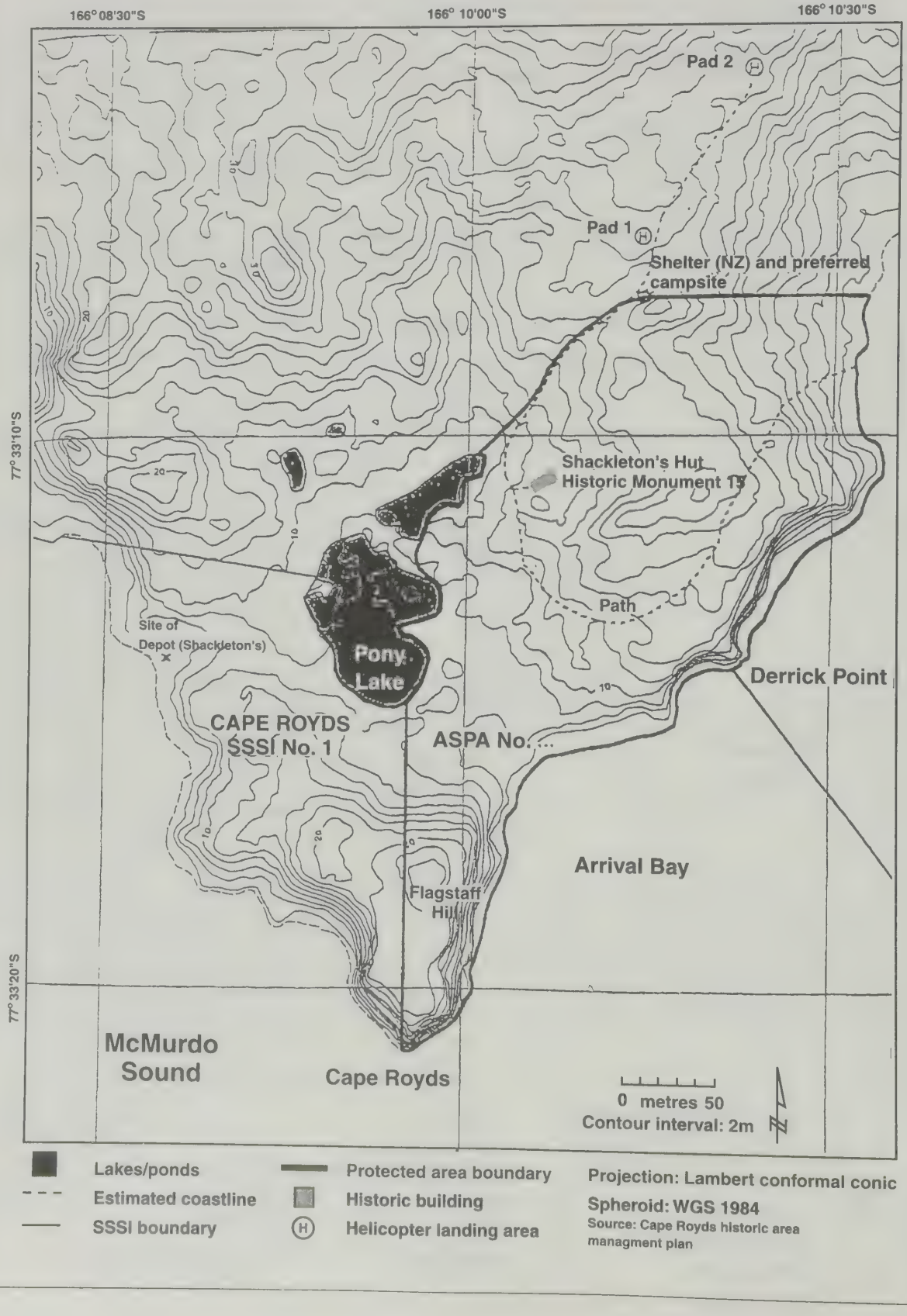
The development of skills and resources, particularly those related to conservation and preservation techniques, to assist with the protection of the Area's values.

7(x) Requirements for reports
Parties should ensure that the principal holder for each Permit issued submits to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report Form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should wherever possible deposit originals or copies of such reports in a publicly accessible archive to maintain a record of usage, to be used both for review of the Management Plan and in organising the use of the site.

Map A — Cape Royds, Antarctic Specially Protected Area: regional topographic map



Map B — Cape Royds, Antarctic Specially Protected Area: site topographic map



Appendix B

Management Plan for Specially Protected Area (SPA No 28) for Historic Site No. 18

(containing the historic *"Discovery"* hut of Captain R F Scott)

HUT POINT, ROSS ISLAND

(Lat. 77° 50'50"S, Long 166° 38'E).

1 Description of Values to be Protected

This hut was originally listed as historic site No. 18 in ATCM recommendation VII-9 proposed by New Zealand.

The hut was built in February 1902 during the National Antarctic *(Discovery)* Expedition of 1901-1904, led by Captain Robert Falcon Scott who later found it a valuable advance staging point for journeys on the "Barrier" during his 1910-1913 expedition. It was also used by Sir Ernest Shackleton during the 1907-1909 British Antarctic Expedition and later by his stranded Ross Sea Party during the Imperial Trans-Antarctic Expedition of 1914-1917. This building was prefabricated in Australia to an 'outback' design with verandahs on three sides.

The Hut Point site is one of the principal sites of early human activity in Antarctica. It is an important symbol of the Heroic Age of Antarctic exploration and, as such, has considerable historical and cultural significance. Some of the earliest advances in the study of earth sciences, meteorology, flora and fauna in Antarctica are associated with the Discovery Expedition based at this site. The history of these activities and the contribution they have made to the understanding and awareness of Antarctica give this Area significant scientific, technical, architectural, aesthetic and social values.

2 Aims and Objectives

The aim of the management plan is to provide protection for the Area and its features so that its values can be preserved. The objectives of the Plan are to:

- avoid degradation of, or substantial risk to, the values of the Area;
- maintain the historic values of the Area through planned restoration and conservation work which may include:
  a. an annual 'on-site' maintenance programme,
  b. a programme of monitoring the condition of artefacts and structures, and the factors which affect them,
  c. a programme of conservation of artefacts conducted on and off site;
- allow management activities which support the protection of the values and features of the Area including recording of any relevant historic data;
- prevent unnecessary human disturbance to the Area, its features and artefacts through managed access to the *Discovery* hut.

3 Management Activities

- A regular programme of restoration and preservation work shall be undertaken on the *Discovery* hut and associated artefacts in the Area;
- Visits shall be made as necessary for management purposes;
- Control of the number of visitors.

- National Antarctic Programmes operating in, or those with an interest in, the region shall consult together with a view to ensuring the above provisions are implemented;

4 Period of Designation

Designated under Measure X(1998) for an indefinite period.

5 Maps

Map A: Hut Point regional map. This map shows the wider environs of the Area with significant topographic features and the adjacent US McMurdo Station. Inset: shows the position of the site in relation to other protected sites on Ross Island.

Map B: Hut Point site map. This map shows the location of the historic hut, Vince's cross and other detail of the immediate environs.

6 Description of the Area

6(i) Geographical coordinates, boundary markers and natural features
Hut Point is small ice free area protruding south west from the Hut Point Peninsula and situated to the west of the United States McMurdo Station.

The designated Area consists solely of the structure of the hut which is situated near the south western extremity of Hut Point.

6(ii)) Restricted zones within the Area
None.

6(iii) Structures within the Area
The designated Area consists solely of the structure of the historic Discovery hut.

6(iv) Location of other Protected Areas within close proximity
SSSI No 1 Cape Royds, is 32 kilometres north of Hut Point. SSSI No 2 Arrival Heights, is 2 kilometres north of Hut Point on Hut Point Peninsula. SPA No 25 Cape Evans, is 22 kilometres to the north of Hut Point. All sites are located on Ross Island.

7 Permit Conditions

Entry to the Area is prohibited except in accordance with a permit.

Permits shall be issued only by appropriate national authorities and may contain both general and specific conditions. A Permit may be issued by a national authority to cover a number of visits in a season. Parties operating in the Ross Sea area shall consult together and with groups and organisations interested in visiting the Area to ensure that visitor numbers are not exceeded.

General conditions for issuing a permit may include:

- activities related to preservation, maintenance, research and/or monitoring purposes;
- management activities in support of the objectives of this plan;
- activities related to tourism, educational or recreational activities providing they do not conflict with the objectives of this plan;
- the Permit should be valid for a stated period;

- a copy of the permit must be carried within the Area.

7(i) Access to and movement within the hut
Control of numbers within the hut is necessary to prevent damage caused by crowding around the many vulnerable features within the hut. The maximum number within the hut at any time (including guides) is: **8 people**

Avoidance of cumulative impacts on the interior of the hut require an annual limit on visitor numbers. The effects of current visitor levels (approximately 1,000 per calendar year) suggest that an increase of more than 100% could cause significant adverse impacts. The annual maximum number of visitors is: **2000 people**

These limits have been based on current visitor levels and on the best advice available from conservation advisory agencies (which include conservators, archaeologists, historians, museologists and other heritage protection professionals). The limits are based on the proposition that any significant increase in the current level of visitors could be detrimental to the values to be protected. An ongoing monitoring programme of the effect of visitors is in place. This will provide the basis for future reviews of the management plan, in particular whether the current annual maximum number of visitors to the area is appropriate. This could result in the annual maximum number either increasing or decreasing.

There are no designated helicopter landings sites in the vicinity of the hut as helicopters have the potential to damage the hut by blowing scoria and ice particles and to accelerate the abrasion of the hut and surrounding artefacts. Landings from the sea by boat may be made to the north of the hut. Vehicles may approach the hut along the road leading from the United States McMurdo Station.

7(ii) Activities which may be conducted within the Area
Activities which may be conducted within the Area include:

- visits for restoration, preservation and/or protection;
- educational and/or recreational visits including tourism;
- scientific activity which does not detract from the values of the Area.

7(iii) Installation, modification and removal of structures
No alteration to the structure shall be made except for conservation purposes or scientific activities that do not detract from the values of the Area as specified in 1. No historic relic or artefact shall be removed from the Area, except for the purposes of restoration and/or preservation and then only in accordance with a Permit.

7(iv) Location of field camps
Use of the historic hut for living purposes is not permitted.

7(v)
Restrictions on materials and organisms which may be brought into the Area
No living animals or plant material shall be introduced to the Area.

No food products shall be taken into the Area.

Chemicals which may be introduced for management purposes shall be removed at or before the conclusion of the activity for which they are required.

Fuel or other materials are not to be left in depots in the Area, unless required for essential purposes connected with the preservation and conservation of the historic structure or the associated relics. All such materials are to be removed when no longer required.

Use of combustion type lanterns is not permitted in the hut under any circumstances.

Smoking in the Area is not permitted.

7(vi) Taking or harmful interference with native flora and fauna
There are no native flora or fauna within the designated Area.

7(vii) Collection of anything not introduced by a visitor
Material may be collected and removed from the Area only for restoration, preservation or protection purposes, or scientific reasons consistent with the objectives of this plan, and only in accordance with a separate permit issued by the appropriate national authority specifically for that purpose.

Visitors must remove objects, substances and waste introduced by them during their time in the Area.

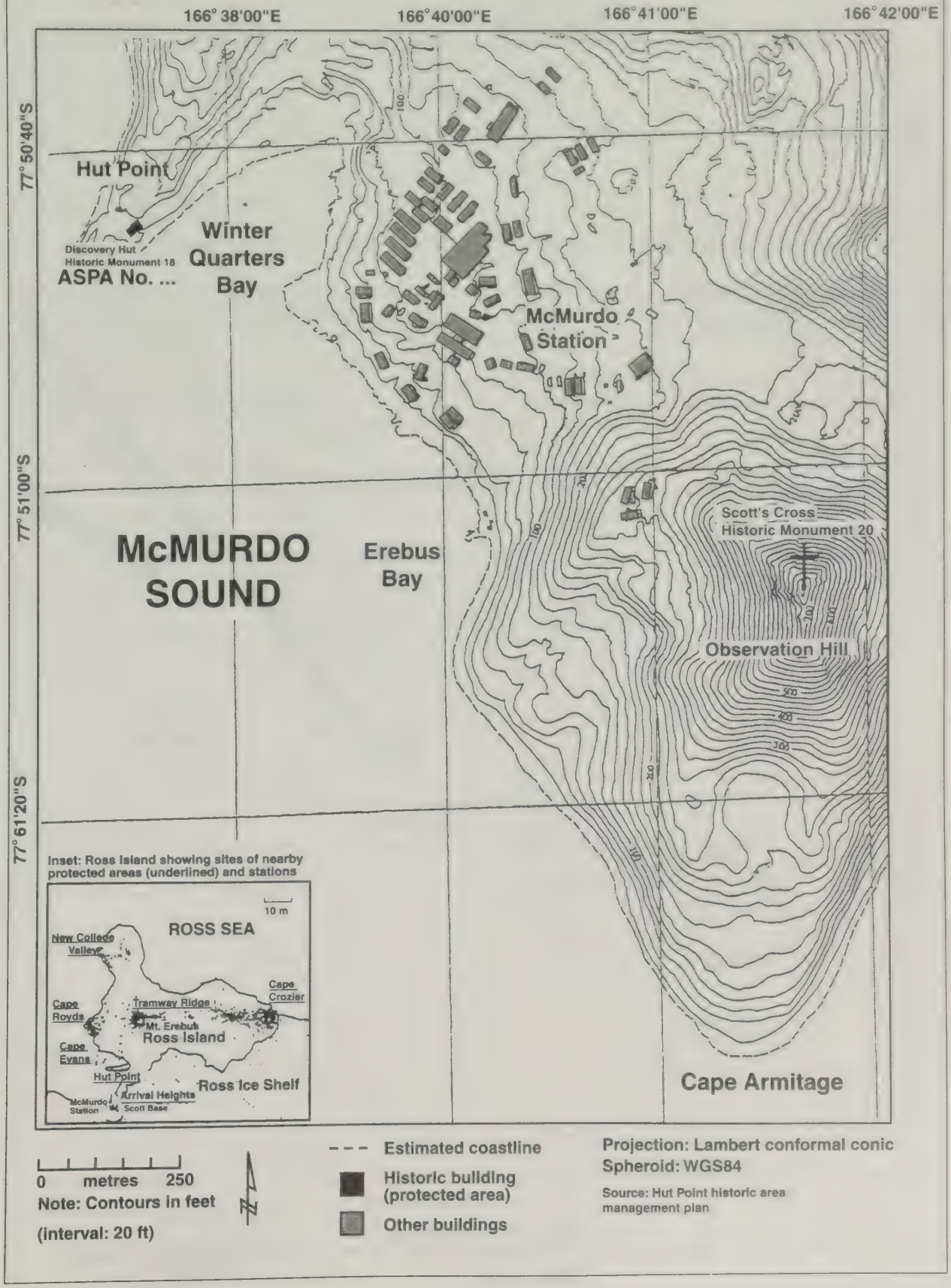
7(viii) Disposal of waste
All waste generated by work parties or visitors shall be removed from the Area.

7(ix) Measures that may be necessary to ensure that the aims and objectives of the plan continue to be met
The provision of information for visitors.

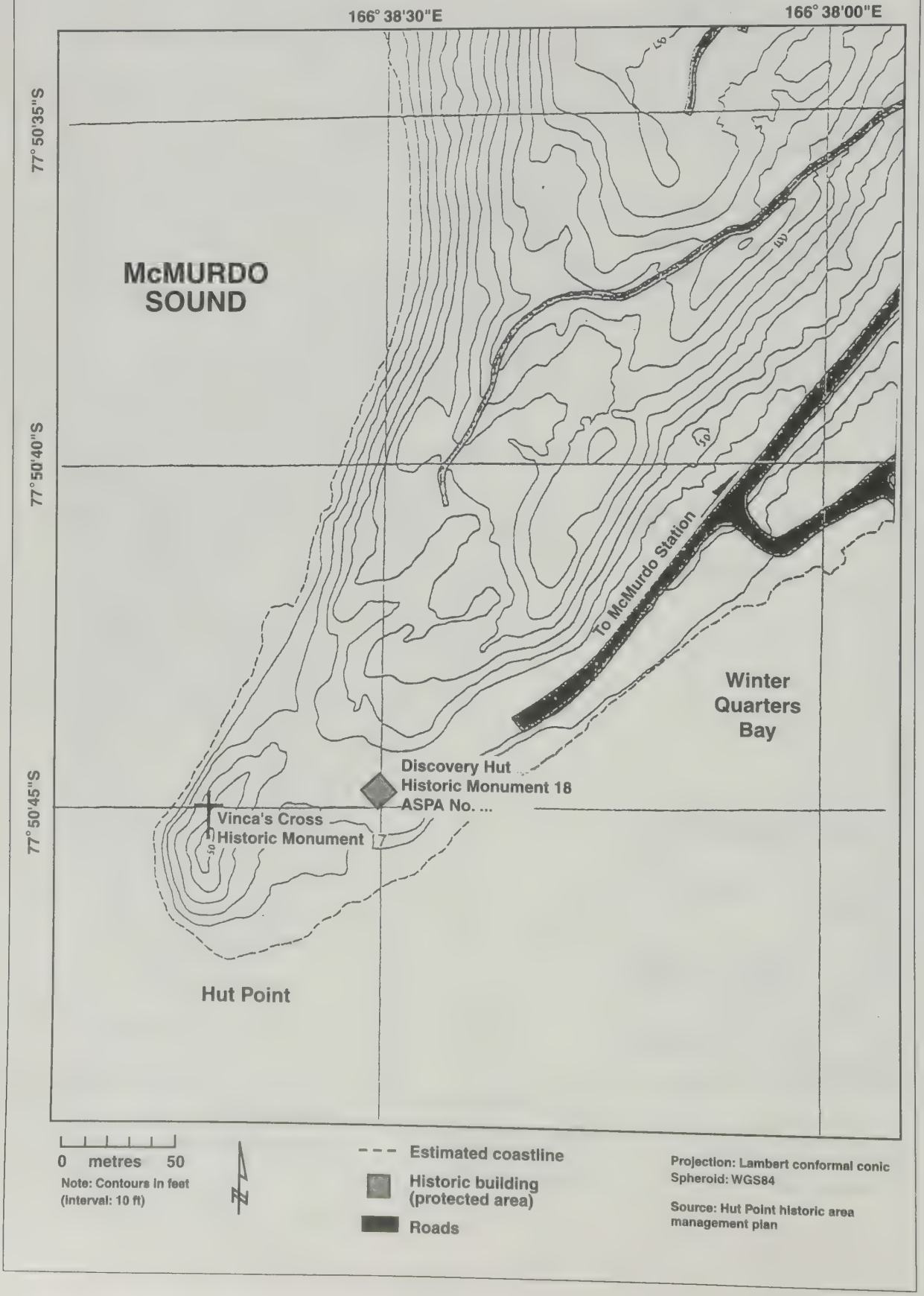
The development of skills and resources, particularly those related to conservation and preservation techniques, to assist with the protection of the Areas values.

7(x) Requirements for reports Parties should ensure that the principal holder for each Permit issued submits to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report Form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should wherever possible deposit originals or copies of such reports in a publicly accessible archive to maintain a record of usage, to be used both for review of the Management Plan and in organising the use of the site.

Map A — Hut Point, Antarctic Specially Protected Area: regional topographic map



Map B — Hut Point, Antarctic Specially Protected Area: site topographic map



Appendix C

Management Plan for Specially Protected Area (SPA) No. 29 for Historic Site No. 22

(containing the historic huts of Carsten Borchgrevink and Scott's Northern Party and their precincts)

CAPE ADARE

(Lat. 71° 18'S, Long 1 70° 09'E).

1 Description of Values to be Protected

This Area was originally listed as Historic site 22 in ATCM Recommendation VII-9 proposed by New Zealand.

There are three main structures in the Area. Two were built in February 1899 during the British Antarctic *(Southern Cross)* Expedition led by C.E. Borchgrevink (1898-1900). One hut served as a living hut and the other as a store. They were used for the first winter spent on the Antarctic continent.

Scott's Northern Party hut is situated 30 metres to the north of Borchgrevink's hut. It consists of the collapsing remains of a third hut built in February 1911 for the Northern Party led by V.L.A. Campbell of R.F. Scott's British Antarctic *(Terra Nova)* Expedition (1910-1913), which wintered there in 1911.

In addition to these features there are numerous other historic relics located in the Area. These include stores depots, a latrine structure, two anchors from the ship *"Southern Cross"*, an ice anchor from the ship *"Terra Nova"*, and supplies of coal briquettes. Other historic items within the Area are buried in guano.

Cape Adare is one of the principal sites of early human activity in Antarctica. It is an important symbol of the Heroic Age of Antarctic exploration and, as such, has considerable historical and cultural significance. Some of the earliest advances in the study of earth sciences, meteorology, flora and fauna in Antarctica are associated with the two earliest expeditions based at this site. The history of these activities and the contribution they have made to the understanding and awareness of Antarctica give this Area significant technical, architectural, aesthetic and social values.

2 Aims and Objectives

The aim of the management plan is to provide protection for the Area and its features so that its values can be preserved. The objectives of the Plan are to:

- avoid degradation of, or substantial risk to, the values of the Area;
- maintain the historic values of the Area through planned restoration and conservation work which may include;
  a. 'on-site' maintenance
  b. monitoring the condition of artefacts and structures, and the factors which affect them
  c. conservation of artefacts to be conducted on and off site
- allow management activities which support the protection of the values and features of the Area including;
  a. mapping and otherwise recording the disposition of historic items in the hut environs
  b. recording other relevant historic data;
- prevent unnecessary human disturbance to the Area, its features and artefacts through managed access to Borchgrevink's hut.

3 Management Activities

- A programme of restoration and preservation work shall be undertaken on the *Southern Cross* hut

and associated structures and artefacts in the Area.

- Visits shall be made as necessary for management purposes.
- Control of the number of visitors.
- National Antarctic Programmes operating in, or those with an interest in, the region shall consult together with a view to ensuring the above provisions are implemented.

4 Period of Designation

Designated under Measure X(1998) for an indefinite period.

5 Maps

Map A: Cape Adare regional map. This map shows the Cape Adare region along with the boundaries of the Area with significant topographic features. It also shows the approximate location of significant historical items within the Area.

Map B: Cape Adare site map. This map shows the approximate location of specific historic relics and structures within the Area.

6 Description of the Area

6(i) Geographical coordinates, boundary markers and natural features
Cape Adare is a generally ice free, prominent volcanic headland, at the northern extremity of Victoria Land, which marks the western approaches to the Ross Sea. The Area is located to the south west of the Cape on the southern shore of Ridley Beach, which encloses a large, flat, triangular area of shingle. The whole of the flat area and the lower western slopes of the Adare Peninsula are occupied by one of the largest Adélie penguin *(Pygoscelis adeliae)* rookeries in Antarctica. Penguins have almost completely occupied the Area and the need to avoid disturbance often restricts access to the huts.

The boundaries of the proposed ASPA are:

- North, an east-west line drawn 50 metres north of the Northern Party Hut.
- East, a north-south line drawn 50 metres to the west of Borchgrevink's stores hut.
- West, a north-south line drawn 50 metres to the east of Borchgrevink's living hut.
- South, the shoreline of Ridley Beach.

Major features of the Area include Borchgrevink's Southern Cross expedition living hut and the unroofed stores hut. Scott's Northern Party hut is situated 30 metres to the north of Borchgrevink's living hut and is in a state of collapse.

In addition to these structures there are many other historic relics distributed around the Area. These include stores depots, a latrine structure, two anchors from the ship *"Southern Cross"*, an ice anchor from the ship *"Terra Nova"*, and supplies of coal. Many of these items are either partly or completely covered in the guano of the Adélie penguins which also occupy the Area.

Skuas *(Catharacta maccormicki)* nest in the vicinity and Weddell seals also haul up along the beach.

6(ii) Restricted zones within the Area
None

6(iii) Structures within the Area
Apart from a Treaty plaque all structures within the Area are of historic origin.

6(iv) Location of other Protected Areas within close proximity
There are no other Protected Areas in the vicinity.

7 Permit Conditions

Entry to the Area is prohibited except in accordance with a permit.
Permits shall be issued only by appropriate national authorities and may contain both general and specific conditions. A permit may be issued by a national authority to cover a number of visits in a season. Parties operating in the Ross Sea area shall consult together and with groups and organisations interested in visiting the Area to ensure that visitor numbers are not exceeded.

General conditions for issuing a permit may include:

- activities related to preservation, maintenance, research and/or monitoring purposes;
- management activities in support of the objectives of this plan;
- activities related to tourism, educational or recreational activities providing they do not conflict with the objectives of this plan;
- the Permit should be valid for a stated period;
- a copy of the permit must be carried within the Area.

7(i) Access to and movement within the Area
Control of movement within the Area is necessary to prevent disturbance to wildlife and damage caused by crowding around the many vulnerable historic features within the Area. The maximum number in the Area at any time (including those within the hut) is: **40 people**

Control of numbers within Borchgrevink's hut is necessary to prevent damage caused by crowding around the many vulnerable features within the hut. The maximum number within the hut at any time (including guides) is: **4 people**

Avoidance of cumulative impacts on the interior of Borchgrevink's hut requires an annual limit on visitor numbers. The number of visitors to the hut varies considerably from year to year but the effect of visitors to other Ross Sea area historic huts suggests that similar limits should apply. The annual maximum number of visitors is: **2000 people**

These limits have been based on current visitor levels and on the best advice available from conservation advisory agencies (which include conservators, archaeologists, historians, museologists and other heritage protection professionals). The limits are based on the proposition that any significant increase in the current level of visitors would be detrimental to the values to be protected. An ongoing monitoring programme of the effect of visitors is in place. This will provide the basis for future reviews of the management plan, in particular whether the current annual maximum number of visitors to the area is appropriate. This could result in the annual maximum number either increasing or decreasing.

Helicopter landings are prohibited within the Area. There are no designated helicopter pads in the vicinity of the Area. For most of the access season it is unlikely that helicopters could be operated without causing harmful interference to wildlife.

Vehicles are prohibited within the Area. Landings from the sea by boat, or vehicles travelling on the sea ice, may be made directly onto the beach at several locations.

Movement on foot around the Area may need to be restricted to avoid harmful interference to penguins nesting around and on the structures and artefacts in the Area.

7(ii) Activities which may be conducted within the Area
Activities which may be conducted within the Area include:

- visits for restoration, preservation and/or protection;

- educational and/or recreational visits including tourism;
- scientific activity which does not detract from the values of the Area.

7(iii) Installation, modification and removal of structures
No new structures are to be erected in the Area, or scientific equipment installed, except for conservation or scientific activities that do not detract from the values of the Area as specified in 1. No historic structure relic or artefact shall be removed from the Area, except for the purposes of restoration and/or preservation and then only in accordance with a permit.

7(iv) Location of field camps
Use of the historic hut, or other structures in the Area, for living purposes is not permitted.

Camping is prohibited within the Area.

7(v) Restrictions on materials and organisms which may be brought into the Area
No living animals or plant material shall be introduced to the Area.

No food products shall be taken into the Area.

Chemicals which may be introduced for management purposes shall be removed at or before the conclusion of the activity for which they are required.

Fuel or other materials are not to be left in depots in the Area, unless required for essential purposes connected with the preservation and conservation of the historic structures or the associated relics. All such materials are to be removed when no longer required.

Use of combustion type lanterns, is not permitted in the hut under any circumstances.

Smoking in the Area is not permitted.

7(vi) Taking or harmful interference with native flora and fauna
This activity is prohibited except in accordance with a separate permit issued by the appropriate national authority specifically for that purpose.

7(vii) Collection of anything not introduced by a visitor
Material may be collected and removed from the Area only for restoration, preservation or protection purposes, or scientific reasons consistent with the objectives of this plan, and only in accordance with a separate permit issued by the appropriate national authority specifically for that purpose.

Visitors must remove objects, substances and waste introduced by them during their time in the Area.

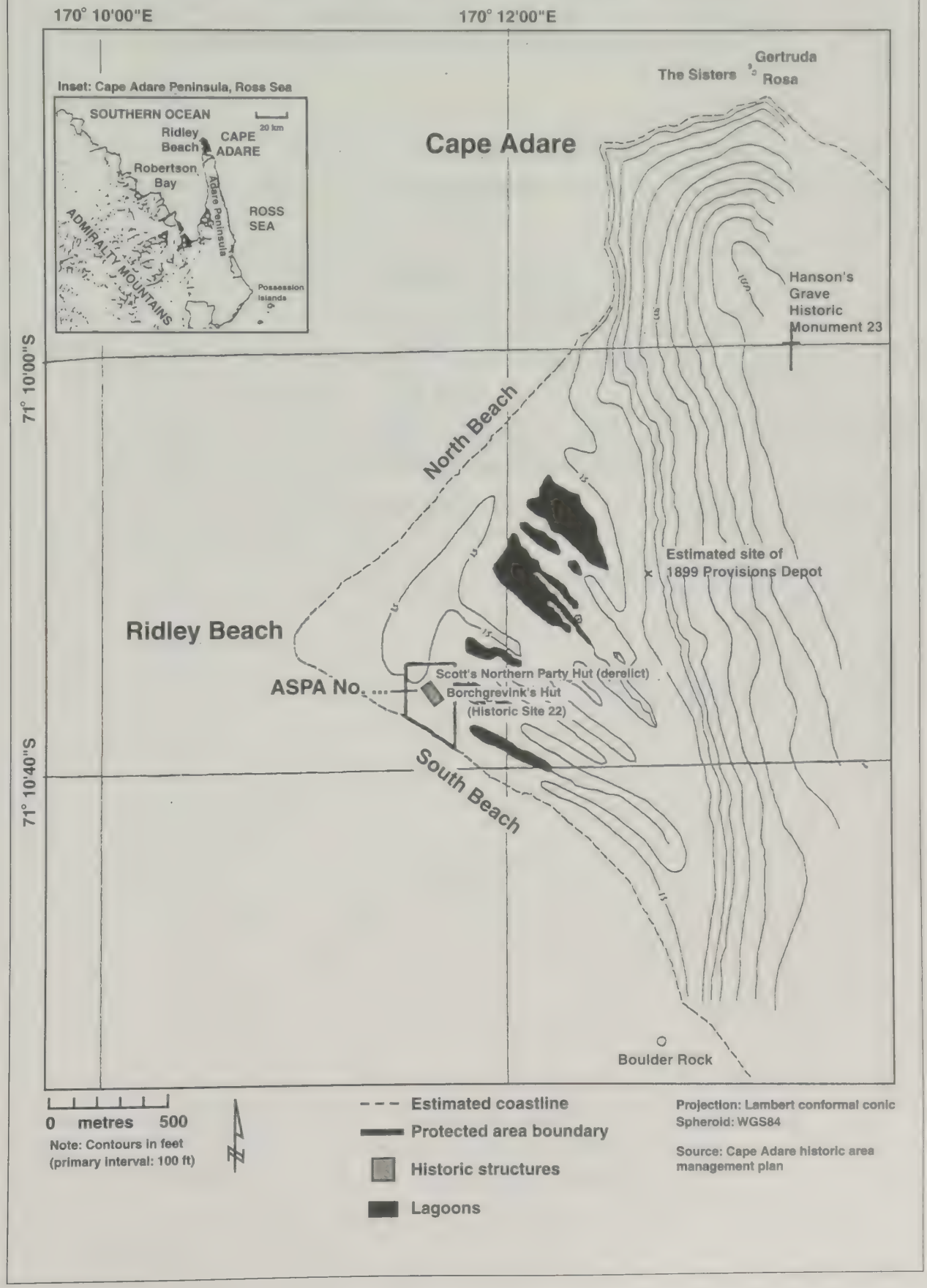
7(viii) Disposal of waste
All waste generated by work parties shall be removed from the Area.

7(ix) Measures that maybe necessary to ensure that the aims and objectives of the plan continue to be met
The provision of information for visitors.

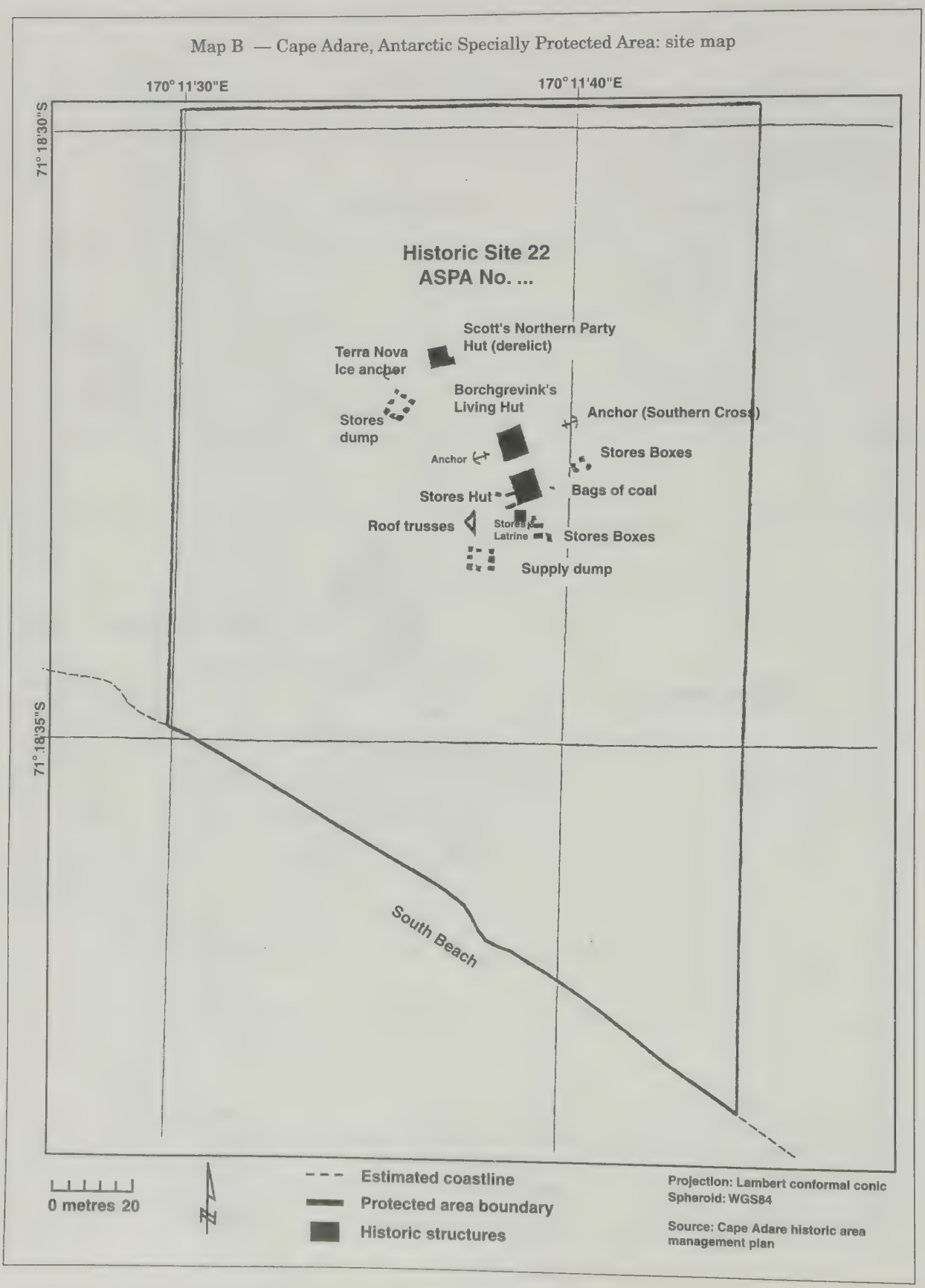
The development of skills and resources, particularly those related to conservation and preservation techniques, to assist with the protection of the Area's values.

7 (x) Requirements for reports
Parties should ensure that the principal holder for each Permit issued submits to the appropriate authority a report describing the activities undertaken. Such reports should include, as appropriate, the information identified in the Visit Report Form suggested by SCAR. Parties should maintain a record of such activities and, in the Annual Exchange of Information, should provide summary descriptions of activities conducted by persons subject to their jurisdiction, in sufficient detail to allow evaluation of the effectiveness of the Management Plan. Parties should wherever possible deposit originals or copies of such reports in a publicly accessible archive to maintain a record of usage, to be used both for review of the Management Plan and in organising the use of the site.

Map A — Cape Adare, Antarctic Specially Protected Area: regional map



Map B — Cape Adare, Antarctic Specially Protected Area: site map



MEASURE 2 (1998)

Antarctic Protected Areas System: Historic Sites and Monuments. South-West Coast of Elephant Island, South Shetland Islands

The Representatives,

Recalling Recommendations I-IX, VI-14, VII-9, XII-7, XIII-16 and XIV-8;

Noting the urgent need to protect the site containing wreckage from a large wooden sailing ship on the south-west coast of Elephant Island;

Aware that the identity of this wreckage is still not known and that further investigation at the site may be necessary to determine the historical significance of the wreckage;

Considering that Historic Site status should be conferred on the site;

Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:

> The following site be added to the "List of Historic Monuments Identified and Described by the Proposing Government or Governments" annexed to Recommendation VII-9 and that thereafter it be accorded the respect and protection required by the Recommendations recalled above:
>
> The south-west coast of Elephant Island between the southern side of Mensa Bay (61°10'S, 55°24'W) and Cape Lookout (61°17'S, 55°13'W), including all of the foreshore and intertidal areas, in which the wreckage of a large wooden sailing ship has been found.

MULTILATERAL

ANTARCTICA AND THE ARCTIC

NON-BINDING

Inuvik Declaration on Environmental Protection and Sustainable Development of the Arctic, Inuvik, 1996

Done at Inuvik 21 March 1996

Primary source citation: Copy of text provided by the U.S. Department of State

We, Ministers of the Arctic Countries:

Recalling that Ministers of the eight Arctic governments met in Rovaniemi, Finland, in June 1991 and signed the "Declaration on the Protection of the Arctic Environment", establishing the Arctic Environmental Protection Strategy (AEPS);

Recalling also that Ministers met in Nuuk, Greenland, in September 1993 and signed the "Declaration on Environment and Development in the Arctic", reaffirming their commitment to collective action;

Recognizing the importance of the Arctic regions to each Arctic country, to indigenous peoples and other Arctic residents, and to the world as a whole;

Aware that the economy, health, social and cultural well-being of Arctic people are affected directly by the condition of the Arctic environment, which is sensitive to changes caused by both local and distant human activities;

Aware also that environmental changes in the Arctic regions have significant local, regional and global impact;

Acknowledging the special role and responsibilities of the Arctic Countries with respect to protection, conservation and restoration of the Arctic environment, the conservation of Arctic flora and fauna, and the special role of indigenous peoples of the Arctic in pursuit of these goals;

Acknowledging also the need for sustainable development and use of resources in the Arctic for the benefit of indigenous peoples and other people living in the Arctic region;

Convinced that the major issues of the protection of the Arctic terrestrial, freshwater, marine and atmospheric environments require local, regional, circumpolar and global cooperation and coordination;

Aware of the special needs for investment, scientific and technical assistance and international cooperation to protect human health and ecosystems in the Arctic;

Recognizing that pollution prevention, often coupled with investments to modernize aging infrastructure, is essential to the long-term health of Arctic ecosystems, Arctic indigenous peoples, as well as national and Arctic economies;

Taking into account the need for support of the programmes of the Arctic indigenous peoples of the Russian Federation in the context of the Proclamation by the United Nations Decade of the World's Indigenous People;

Reaffirming the support of our countries to the principles of the Rio Declaration and Agenda 21 of the United Nations Conference on Environment and Development; and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention); the UN Framework Convention on Climate Change; the UN Convention on Biological Diversity, the United Nations Economic Commission for Europe's (UN

ECE) Convention on Long-Range Transboundary Air Pollution (LRTAP), and on Environmental Impact Assessment in a Transboundary Context; the Global Programme of Action on Protecting the Marine Environment from Land-based Sources; and other international agreements that are relevant and apply to Arctic regions, and supporting the important contributions being made by the AEPS countries in the promotion and implementation of these agreements;

Encouraging the ratification and compliance with the global and regional international legal instruments referred to in the Third Ministerial Conference Report in the field of the environment of relevance to the Arctic region;

Taking note of the statement and recommendations of the Second Conference of Parliamentarians of the Arctic region held on March 13 - 14, 1996 in Yellowknife, Canada;

Bearing in mind that we agreed to work towards and support international arrangements to control environmentally harmful emissions that may affect the Arctic, to engage non-UN ECE countries in the reduction of global pollution, and to co-operate with other international environmental monitoring, research, conservation and protection activities that are relevant to the Arctic environment; and

Having noted the progress made by the AEPS and its programmes since its beginning in 1991, and in particular the report of the Third Ministerial Conference in Inuvik, Canada, in March 1996.

Hereby make the following Declaration:

1. **We reaffirm** our commitment to protection of the Arctic environment as a priority, and to the implementation of the Arctic Environmental Protection Strategy (AEPS), as outlined in the Rovaniemi and Nuuk Declarations.

2. **We adopt** the report of the Third Ministerial Conference on the Protection of the Arctic Environment.

3. **We acknowledge with gratitude** the work and reports of the Arctic Monitoring and Assessment Programme (AMAP), the Programme on Conservation of Arctic Flora and Fauna (CAFF), the Programme for Protection of the Arctic Marine Environment (PAME), the Programme on Emergency Prevention, Preparedness, and Response (EPPR) and the work of the Task Force on Sustainable Development and Utilization (TFSDU).

4. **We welcome with appreciation** the main report presented by PAME.

5. **We recognize** that a strong and vibrant AEPS is an essential component of a sustainable development approach in the Arctic, and emphasize the importance of integrating the AEPS, Programmes with Arctic economics and social initiatives to uphold the principles of sustainable development. In view of this, we agree to establish a Working Group on Sustainable Development and Utilization (SDU).

6. **We set the following priorities** for the Senior Arctic Affairs Officials (SAAOs) and the AEPS Programmes.

   For SAAOs, the priorities are directing the AEPS process and providing integration, policy and management direction to the AEPS Programmes and the AEPS Secretariat, as well as conducting an assessment of the present organizational structure of the AEPS with a view to ensuring cost-effective and well coordinated programmes; developing a framework and estimate for common-cost sharing, including in-kind contributions for our consideration at the next Ministerial Conference; exploring opportunities for obtaining funds from other international programmes and international financial institutions; and developing new Terms of Reference which would serve the sustainable development work under the Arctic Council once that forum is created. The SAAOs, with the assistance of the Permanent Participants, will also undertake to develop revised Terms of Reference for SDU and an initial workplan for the Arctic Council's sustainable development work, to be presented for discussion to the Arctic Council Senior Arctic Officials (SAOs).

   For AMAP, the priorities are publishing in early 1997, the State of the Arctic Environment Report (SOAER) and its accompanying technical document, the Arctic Assessment Report (AAR); holding a symposium in Norway in 1997 to facilitate a senior review of the implications to the AEPS of the AAR; preparing two short papers on i) the feasibility of developing sub-regional cooperative oil-related monitoring and

assessment activities, and ii) the state of knowledge concerning organotins; in the marine environment; and preparing a discussion and strategy paper evaluating priorities and options for a second phase of AMAP's work.

For CAFF, the priorities are continuing the development of the Circumpolar Protected Area Network (CPAN); assisting countries with the implementation of the Circumpolar Murre Conservation Strategy and Action Plan; and developing a draft Arctic strategy relating to the goals of the Convention on Biological Diversity.

For PAME, the priorities are to be delivered by lead countries which will coordinate the following joint efforts: to address the development of an Arctic Regional Programme of Action on marine pollution resulting from land-based activities; to develop, in cooperation with other AEPS Programmes, guidelines for offshore petroleum activities; to collect information on current and future shipping activities and their associated environmental effects; and to maintain an overview of the effectiveness of existing international arrangements relevant to the objectives of the PAME Programme area. PAME will coordinate the lead country progress reports to the next Mnisterial Conference.

For EPPR, the priorities are completing the Arctic Guide for Emergency Prevention, Preparedness and Response; contributing to the development of preventative, mitigating and response measures for oil and gas accidental releases in the Arctic; continuing to involve indigenous peoples in accident prevention and response; preparing an analysis of the effectiveness of existing accident reporting systems; refining the Risk Analysis on Environmental Threats to the Arctic, including an assessment of the need for future action; and analysing the adequacy and effectiveness of the existing international agreements and other arrangements in the Arctic within EPPR's area of expertise.

For SDU, the priority is for the Working Group to continue to operate with the current terms of reference of the Task Force on SDU and with specific direction from the SAAOs, pending the expeditious creation of the Arctic Council.

7. **We note with satisfaction** the establishment of the Indigenous Peoples' Secretariat and the support it has given to the AEPS Permanent Participants to facilitate their participation in the AEPS. We further note the success of the Seminar on Integration of Indigenous Peoples' Knowledge held in Iceland, and its useful recommendations, and express our thanks to the governments of Denmark and Iceland for moving forward this major component of the AEPS.

8. **We recognize and affirm** the right of all Arctic indigenous peoples to be represented in the AEPS. We acknowledge the contributions of the AEPS Permanent Participants, and encourage them and other indigenous peoples' organizations to participate actively in the work of the AEPS. We emphasize the importance of indigenous peoples and their knowledge to the AEPS and its programmes.

9. **We affirm** the need for a clear statement of ethical principles for research, data gathering and dissemination, agreeable to all countries, to Arctic indigenous peoples and to other northern residents and to the scientific community; we note the work underway by the AEPS and the International Arctic Sciences Committee (IASC). We urge that this work be completed and presented at the next Ministerial meeting.

10. **We support** the efforts of the Russian Federation in addressing the environmental problems in the Russian Arctic bearing in mind the Declaration of the Pan-European Ministerial Conference in Sofia, October, 1995 in which matters concerning environmental financing in the central and eastern European countries for reducing current levels of pollution and the risk of environmental degradation are given particular attention.

11. **We support** the continuing negotiations and collaboration in relevant international fora to integrate the AEPS with local, regional, circumpolar and global environmental protection activities such as: the work currently undertaken under the auspices of UNEP to prepare for the negotiation of a global legally binding instrument for controlling emissions and discharges of persistent organic pollutants; the protocol negotiations on POPs and heavy metals under the framework of the UN ECE-LRTAP Convention; the International Atomic Energy Agency's International Arctic Seas Assessment Programme; and highly value the contribution being made by the AEPS countries in the evolution of new international agreements.

12. **Weendorse** the EPPR recommendation that where significant accidents occur which directly or indirectly

cause, or threaten to cause, environmental or health effects in the Arctic, all Arctic Countries shall, through their National Contact Points, be notified promptly and receive further information as appropriate.

13. **We agree to cooperate** with the Russian Federation in searching for investments required for implementing programmes and projects aimed at the conservation and restoration of the traditional habitats of the indigenous peoples of the North of the Russian Federation.

14. **We agree** to ensure implementation of the priorities as listed in the present Declaration and to make every effort to provide and maintain the necessary resources to enable each country and indigenous peoples to participate fully in the activities of the AEPS.

15. **We are fully committed** to the earliest possible establishment of the Arctic Council.

In witness whereof, we have signed this Declaration.

For the Government of Canada

[Signature]
Ronald A. Irwin
Minister of Indian Affairs and Northern Development

For the Government of Denmark

[Signature]
Marianne Jensen
Minister for Health, The Environment and Research and Nordic Affairs

For the Government of Finland

[Signature]
Markku Nurmi
Director General, Ministry of the Environment

For the Government of Iceland

[Signature]
Gudmundur Bjarnason
Minister of the Environment

For the Government of Norway

[Signature]
Bernt Bull
Deputy Minister, Ministry of the Environment

For the Government of the Russian Federation

[Signature]
Victor I. Danilov-Danilian
Minister of the Environment Protection and Natural Resources of the Russian Federation

For the Government of Sweden

[Signature]
Mats Olsson
Deputy Director General,
Swedish Environmental Protection Agency

For the Government of the United States of America

[Signature]
William E. Martin
Deputy Assistant Secretary of Commerce for International Affairs

Inuvik, March 21, 1996

Declaration on the Establishment of the Arctic Council, Ottawa, 1996

Done at Ottawa 19 September 1996

Primary source citation: Copy of text provided by the U.S. Department of State

The representatives of the Governments of Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States of America (hereinafter referred to as the Arctic States) meeting in Ottawa;

Affirming our commitment to the well-being of the inhabitants of the Arctic, including recognition of the special relationship and unique contributions to the Arctic of indigenous people and their communities;

Affirming our commitment to sustainable development in the Arctic region, including economic and social development, improved health conditions and cultural well-being;

Affirming concurrently our commitment to the protection of the Arctic environment, including the health of Arctic ecosystems, maintenance of biodiversity in the Arctic region and conservation and sustainable use of natural resources;

Recognizing the contributions of the Arctic Environmental Protection Strategy to these commitments;

Recognizing the traditional knowledge of the indigenous people of the Arctic and their communities and taking note of its importance and that of Arctic science and research to the collective understanding of the circumpolar Arctic;

Desiring further to provide a means for promoting cooperative activities to address Arctic issues requiring circumpolar cooperation, and to ensure full consultation with and the full involvement of indigenous people and their communities and other inhabitants of the Arctic in such activities;

Recognizing the valuable contribution and support of the Inuit Circumpolar Conference, Saami Council, and the Association of the Indigenous Minorities of the North, Siberia, and the Far East of the Russian Federation in the development of the Arctic Council;

Desiring to provide for regular intergovernmental consideration of and consultation on Arctic issues.

Hereby declare:

1. The Arctic Council is established as a high level forum to:

   (a) provide a means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues[1], in particular issues of sustainable development and environmental protection in the Arctic.

   (b) oversee and coordinate the programs established under the AEPS on the Arctic Monitoring and Assessment Program (AMAP); Conservation of Arctic Flora and Fauna (CAFF); Protection of the Arctic Marine Environment (PAME); and Emergency Prevention, Preparedness and Response (EPPR).

(c) adopt terms of reference for, and oversee and coordinate a sustainable development program.

(d) disseminate information, encourage education and promote interest in Arctic-related issues.

2. Members of the Arctic Council are: Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States of America (the Arctic States).

The Inuit Circumpolar Conference, the Saami Council and the Association of Indigenous Minorities of the North, Siberia and the Far East of the Russian Federation are Permanent Participants in the Arctic Council. Permanent participation equally is open to other Arctic organizations of indigenous peoples[*2] with majority Arctic indigenous constituency, representing:

(a) a single indigenous people resident in more than one Arctic State; or

(b) more than one Arctic indigenous people resident in a single Arctic state.

The determination that such an organization has met this criterion is to be made by decision of the Council. The number of Permanent Participants should at any time be less than the number of members.

The category of Permanent Participation is created to provide for active participation and full consultation with the Arctic indigenous representatives within the Arctic Council.

3. Observer status in the Arctic Council is open to:

(a) non-Arctic states;

(b) inter-governmental and inter-parliamentary organizations, global and regional; and

(c) non-governmental organizations

that the Council determines can contribute to its work.

4. The Council should normally meet on a biennial basis, with meetings of senior officials taking place more frequently, to provide for liaison and coordination. Each Arctic State should designate a focal point on matters related to the Arctic Council.

5. Responsibility for hosting meetings of the Arctic Council, including provision of secretariat support functions, should rotate sequentially among the Arctic States.

6. The Arctic Council, as its first order of business, should adopt rules of procedure for its meetings and those of its working groups.

7. Decisions of the Arctic Council are to be by consensus of the Members.

8. The Indigenous Peoples' Secretariat established under AEPS is to continue under the framework of the Arctic Council.

9. The Arctic Council should regularly review the priorities and financing of its programs and associated structures.

Therefore, we the undersigned representatives of our respective Governments, recognizing the Arctic Council's political significance and intending to promote its results, have signed this Declaration.

[1] The Arctic Council should not deal with matters related to military security.

[2*] The use of the term "peoples" in this Declaration shall not be construed as having any implications as regard the rights which may attach to the term under international law.

Signed by the representatives of the Arctic States in Ottawa, this 19th day of September 1996.

[Signature]
FOR THE GOVERNMENT
OF CANADA

[Signature]
FOR THE GOVERNMENT
OF DENMARK

[Signature]
FOR THE GOVERNMENT
OF FINLAND

[Signature]
FOR THE GOVERNMENT
OF ICELAND

[Signature]
FOR THE GOVERNMENT
OF NORWAY

[Signature]
FOR THE GOVERNMENT OF
THE RUSSIAN FEDERATION

[Signature]
FOR THE GOVERNMENT
OF SWEDEN

[Signature]
FOR THE GOVERNMENT OF
THE UNITED STATES
OF AMERICA

Alta Declaration on the Arctic Environmental Protection Strategy, Alta, 1997

Done at Alta 13 June 1997

Primary source citation: Copy of text provided by the U.S. Department of State

We, the Ministers of the Arctic countries:

Recalling that the Ministers of the eight Arctic governments met in Rovaniemi, Finland in June 1991 to establish the Arctic Environmental Protection Strategy (AEPS), and have met since then in Nuuk, Greenland in September 1993 and Inuvik, Canada in March 1996 to review and determine further measures to collectively implement the AEPS;

Noting the progress made by the AEPS and its programmes since its inauguration;

Recognising the importance of the Arctic to our respective countries, to present and future generations of all Arctic residents, especially indigenous peoples[1], and to the rest of the world;

Acknowledging that the Arctic environment consists of ecosystems with unique features which are particularly vulnerable to impacts resulting from human activities, and as such require special precautionary and protective measures;

Recognising that sustainable development is an overriding objective for all activities in order to secure ecological safety and the integration of environmental concerns in management, planning and development;

Acknowledging the importance of sustainable development in the Arctic to the health, social and cultural well-being, and economic circumstances of Arctic peoples;

Recognising the importance of biological diversity in the Arctic region and **reaffirming** the special role and responsibilities of the Arctic countries with respect to protection, restoration and conservation of the Arctic environment;

Reaffirming the support of our countries for the principles of the Rio Declaration, Agenda 21 of the UN Conference on Environment and Development, and regional and global conventions and other arrangements or instruments relevant to the Arctic;

Acknowledging with appreciation the substantive and comprehensive work of the Arctic Monitoring and Assessment Programme (AMAP) in preparing "The AMAP Assessment Report: Arctic Pollution Issues" and "Arctic Pollution Issues: A State of the Arctic Environment Report" and in holding the international scientific symposium in Tromsø, Norway;

Acknowledging with gratitude the work and reports of the programmes on Conservation of Arctic Flora and Fauna (CAFF), Protection of the Arctic Marine Environment (PAME), Emergency Prevention, Preparedness and Response (EPPR) and Sustainable Development and Utilisation (SDU);

[1] The user of the term "peoples" in this Declaration shall not be construed as having any implications as regard the rights which may attach to the term under international law.

Recognising the special role and important contributions of indigenous peoples in each of the AEPS programmes;

Recognising also the support and the contributions from non-Arctic countries, global and regional intergovernmental and non-governmental organisations in the AEPS and **encouraging** their continued participation and contributions to activities and objectives of the AEPS programmes;

Welcoming the establishment of the Arctic Council in September 1996 and **looking forward to** the work of the Arctic Council to promote co-operation, co-ordination and interaction among Arctic countries and to build on the achievements and objectives of the AEPS;

Hereby make the following Declaration:

1. **We reaffirm** our commitment to protect the Arctic environment as one of the priority elements of sustainable development, as elaborated under the AEPS, and **agree** to continue joint efforts to implement, develop and improve AEPS programmes under the auspices of the Arctic Council;

2. **We welcome** with appreciation the AMAP reports and commit to take their findings and recommendations into consideration in our policies and programmes. **We agree** to increase our efforts to limit and reduce emissions of contaminants into the environment and to promote international co-operation in order to address the serious pollution risks reported by AMAP. **We will** draw the attention of the global community to the content of the AMAP reports in all relevant international fora, particularly at the forthcoming Special Session of the General Assembly, and **we will** make a determined effort to secure support for international action which will reduce Arctic contamination;

3. **We receive** with appreciation the "Guidelines for Environmental Impact Assessment (EIA) in the Arctic" and the "Arctic Offshore Oil and Gas Guidelines" developed under the AEPS, and **agree** that these Guidelines be applied;

4. **We receive** with appreciation the "Arctic Guide for Emergency Prevention, Preparedness and Response" and **encourage** the Arctic countries to make use of the Guide as appropriate;

5. **We note** the discussion in ethical principles for research in the Arctic and **underline** the principle that Arctic research is based upon commonly accepted scientific guidelines. **We also note** the "Reference Document on Ethical Principles" and **recommend** that this be used as appropriate;

6. **We encourage** continued input and participation of the Permanent Participants in the AEPS programmes, including indigenous peoples' traditional knowledge, as essential to sustainable development, including the use of natural resources and effective environmental protection of the Arctic;

7. **We encourage** international scientific research as necessary to expand the knowledge and understanding of the Arctic region;

8. **We support** the efforts of the Russian Federation in addressing its environmental problems, and in particular its recent efforts towards developing a Russian Programme of Action for protecting the marine environment from land-based sources of pollution, and its efforts to protect the environment from the effects of accidents;

9. **We welcome** with appreciation the report from the Senior Arctic Affairs Officials (SAAOs) to the Fourth Ministerial Conference on the AEPS, adopt the SAAOs recommendations, and instruct the senior officials to assign and direct future work of the programmes based on the following priorities:

   - **We endorse** continuation of activities for monitoring, data collection, exchange of data on the impacts, and assessment of the effects of contaminants and their pathways, increased Ultraviolet-B (UV-B) radiation due to stratospheric ozone depletion, and climate change on Arctic ecosystems. Special emphasis is required on human health impacts and the effects of multiple stressors, as detailed in the SAAO report on the future work of AMAP and its implementation. The overall objective is to provide reliable and sufficient information on the status of, and threats to, the Arctic environment, and to provide scientific advice on actions to be taken.

- **We endorse** continuation of activities for conservation, monitoring and assessment of threats to Arctic flora, fauna and their habitats. **We welcome** to co-operative Strategy for the Conservation of Biological Diversity in the Arctic Region, and note the intention to develop a long-term plan to give effect to the Strategy. **We also endorse** the further development and implementation of the "Circumpolar Protected Areas Network (CPAN) Strategy and Action Plan", the implementation of the "International Murre Conservation Strategy and Action Plan", and the "Circumpolar Eider Conservation Strategy and Action Plan".

- **We endorse** continuation of activities to identify means of preventing or reducing pollution of the Arctic environment through co-ordinated action programmes and guidelines complementing existing legal arrangements. Focus should be on the completion and implementation of the "Regional Programme of Action of the Protection of the Arctic Marine Environment from Land-based Activities", follow-up on the application of "Arctic Offshore Oil and Gas Guidelines", and development of a co-ordinated system for data collection and sharing of information on current and potential shipping activities to facilitate analysis of their associated environmental effects.

- **We endorse** continuation of activities to identify means of improving emergency prevention, preparedness and response, in particular the development of an action plan for source control to meet risks identified, the development of a "Field Guide for Arctic Oil Spill Response" and a strategic plan of action for this programme area.

- **We endorse** the continued analysis and maintenance of a comprehensive overview regarding the adequacy and effectiveness of international agreements, measures and guidelines, and the analysis of accident notification systems to identify gaps and improve existing arrangements.

- **We recognise** the importance of waste management issues, and **instruct** the senior officials to continue work in this area.

- **We look forward** to progress reports at future Arctic Council meetings on the priority activities defined above.

10. **We extend** the mandates for the existing Working Groups and their Secretariats on an interim basis until the first meeting of the Arctic Council decides how it will organise its work, taking into account the need to integrate, consolidate and co-ordinate the work in the most efficient and effective way;

11. **We take note** of the report on Financing Strategy and Mechanisms, and **recommend** that the next Arctic Council meeting take into consideration the range of potions contained in the SAAO Report when exploring funding mechanisms for the Arctic Council, including participation of indigenous peoples, in particular the Russian indigenous inhabitants;

12. **We recommend** that sustainable development, including environmental protection strategies, scientific advice and traditional knowledge, be an overriding objective for all activities under the Arctic Council. **We also stress** the need for relevant activities supporting sustainable use of renewable resources by Arctic residents, in particular indigenous peoples;

13. **We call for** the completion, as a matter of urgency, of the Terms of Reference for sustainable development programmes and Rules of Procedure necessary for the operation of the Arctic Council, and **direct** the senior officials to continue to identify and promote development of co-operative activities in other programme areas;

14. **We recommend** that the Arctic Council co-operate and take appropriate action with other relevant fora which are pursuing complementary objectives, such as the Barents Council, in order to ensure co-ordination of work and increase efficiency;

15. **We agree** that the Arctic countries should take joint action to promote the early completion of the on-going work on an "International Code of Safety for Ships Operating in Polar Waters" (Polar Code) under the auspices of the International Maritime Organisation (IMO);

16. **We are committed** to deal with the threat of radioactive pollution of the Arctic to avoid irreparable damage. **We therefore fully support** regional co-operation between two or more Arctic States, as well as mul-

tilateral efforts, to enhance nuclear reactor safety and to increase and promote the safe management, storage and disposal of spent nuclear fuel and radioactive waste. **We call for** full implementation of the International Atomic Energy Agency (IAEA) Convention on Nuclear Safety; the rapid finalisation of the IAEA Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, and the application of the current IMO Irradiated Nuclear Fuel Code. In addition, **we recognise** the importance of the on-going co-operation to provide for the early completion of the facilities needed for the implementation of the ban on dumping of radioactive waste at sea adopted by the London Convention of 1972;

17. **We agree** to work vigorously for the early completion and implementation of a protocol on the elimination or reduction of persistent organic pollutants (POPs) under the framework of the UN Economic Commission for Europe (ECE) Convention on Long-Range Transboundary Air Pollution. **We also fully support** the negotiations to conclude similar protocols on heavy metals and nitrogen oxides. **We strongly welcome** the establishment of an Intergovernmental Negotiating Committee under the auspices of United Nations Environmental Programme (UNEP) to initiate work on a global instrument on POPs by early 1998;

18. **We therefore proclaim** our intention to continue co-operation, co-ordination and interaction among the Arctic States, with the involvement of the indigenous peoples and other Arctic residents, on common Arctic issues for the benefit of present and future generations.

The Iqaluit Declaration on the Declaration on the Establishment of the Arctic Council, Iqaluit, 1998

Done at Iqaluit 18 September 1998

Primary source citation: Copy of text provided by the U.S. Department of State

The Arctic Council Iqaluit Ministerial Meeting is the first Meeting under the Arctic Council established on September 19, 1996, in Ottawa, Canada. The Declaration on the *Establishment of the Arctic Council* created the Council as a high level forum to provide a means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic; oversee and coordinate the programs established under the Arctic Environmental Protection Strategy; adopt terms of reference for and oversee and coordinate a sustainable development program; and disseminate information, encourage education and promote interest in Arctic-related issues.

The category of Permanent Participation is created to provide for active participation and full consultation with the Arctic indigenous representatives within the Arctic Council. The Council acknowledges and appreciates the contributions of the Permanent Participants: the Inuit Circumpolar Conference, the Saami Council and the Russian Association of Indigenous Peoples of the North, and the contributions from Observers, in the work and programs of the Arctic Council.

WE, THE MINISTERS OF THE ARCTIC COUNTRIES HEREBY:

1. **Adopt** the Arctic Council Rules of Procedure and Arctic Council Terms of Reference for a Sustainable Development Program, attached as Annexes 1 and 2, respectively, to the Senior Arctic Officials (SAOs) Report 1998;

2. **Approve** the Aleut International Association as a Permanent Participant in the Arctic Council;

3. **Welcome and approve** the status of Observer for:

   The Federal Republic of Germany
   The Kingdom of The Netherlands
   Poland
   The United Kingdom of Great Britain and Northern Ireland
   The Nordic Council
   The Northern Forum
   The United Nations Economic Commission for Europe (UN-ECE)
   The United Nations Environment Programme (UNEP)
   The International Arctic Science Committee (IASC)
   The Standing Committee of Parliamentarians of the Arctic Region (SCPAR)
   The World Wide Fund for Nature (WWF)
   The International Union for Circumpolar Health (IUCH);

4. **Direct** SAOs to continue to review applications relating to Permanent Participant status and Observer status to the Arctic Council, and to recommend applicants for approval at the next Arctic Council Ministerial in 2000;

5. **Welcome** the SAOs' Report to the First Ministerial Meeting of the Arctic Council and adopt the recommendations contained within the Report;

6. Commit to the well-being of the inhabitants of the Arctic, and **affirm** that the goal of the sustainable development program of the Arctic Council is to propose and adopt steps to be taken by the Arctic States to advance sustainable development in the Arctic, including opportunities to protect and enhance the environment, and the economies, cultures and health of indigenous communities and of other inhabitants of the Arctic, as well as to improve the environmental, economic and social conditions of Arctic communities as a whole;

7. **Establish** the Sustainable Development Program, and **welcome** the sustainable development proposals from Arctic States and Permanent Participants in the areas of Arctic children and youth, health, telemedicine, resource management, including fisheries, cultural and eco-tourism, technology transfer to improve Arctic sanitation systems, and national sustainable development strategies. We **direct** the SAOs to guide the completion of work on proposals in these areas and **encourage** that funding be sought, so that projects can be initiated as quickly as possible before the next Ministerial meeting;

8. **Welcome** Canada's offer to take the lead with respect to the project on Arctic children and youth, and to provide staff support, and **welcome** the offer of the United States to take the lead with respect to the project on telemedicine, and **further welcome** the offer of the Saami Council to take the lead with respect to the two fisheries management projects. We **request** that Canada and the Arctic Monitoring and Assessment Programme cooperate in reviewing knowledge on the impacts of environmental contamination on the health and development of children and youth, under the direction of the SAOs;

9. **Establish** a Sustainable Development Working Group, comprised of SAOs and Permanent Participants, or their designated representatives, which will meet prior to the SAOs' regular meetings, or at other times to be determined, and **request** that it facilitate completion of work on sustainable development proposals identified above, propose possible priority areas in the further development of the sustainable development program, and review specific proposals and prepare them for approval by the Ministers;

10. **Encourage** the Sustainable Development Working Group to take special note of proposals which reflect the importance of traditional and indigenous knowledge and the perspectives of indigenous communities in developing a sustainable future for the Arctic;

11. **Welcome**, and **are pleased to announce**, the establishment of a University of the Arctic, a university without walls, as proposed by a working group of the Circumpolar Universities Association. We **note** the kind offer of Finland to support the interim secretariat. We **encourage** the working group to continue its efforts and to consult with northern educational and indigenous authorities and colleges. We **look forward** to further reports on this issue and to seeking ways to promote the success of this initiative;

12. **Acknowledge** the successful integration of the Arctic Environmental Protection Strategy (AEPS) and the four working groups as constituted in the AEPS: Arctic Monitoring and Assessment Programme, Conservation of Arctic Flora and Fauna, Protection of the Arctic Marine Environment, and Emergency, Prevention, Preparedness and Response; into the Arctic Council and **direct** SAOs to continue their efforts in enabling a smooth transition;

13. **Receive with appreciation** the comprehensive Arctic Monitoring and Assessment Programme (AMAP) Assessment Report: Arctic Pollution Issues, which contains the substantive scientific documentation in support of the Arctic Pollution Issues - A State of the Arctic Environment Report, presented to the 4th AEPS Ministerial Meeting in Alta;

14. **Welcome** the establishment of the AMAP Human Health Thematic Data Centre by Denmark;

15. **Reaffirm** our commitment from the Alta Declaration to take the findings and recommendations from the AMAP Report, Arctic Pollution Issues : A State of the Arctic Environment Report, into consideration in our policies and programmes, to increase our efforts to limit and reduce emissions of contaminants into the environment and to promote international cooperation and make a determined effort to secure support for international actions in order to address the serious pollution risks reported by AMAP;

16. **Recognize** the need to continue to identify actions to address the pollution sources identified in the AMAP Report, and instruct SAOs to continue to develop an overall plan of action complementary to existing legal arrangements and the Regional Programme of Action for the Protection of the Arctic Marine Environment from Land-Based Activities. This plan, the Arctic Council Action Plan to Eliminate Pollution of the Arctic (ACAP), should include actions of a wide scope on pollution prevention and remediation measures, also including the identification and implementation of specific cooperative projects;

17. **Welcome with appreciation** and **support** the three-part cooperative pilot project for the phase out of PCB use, and management of PCB-contaminated wastes in the Russian Federation as an example of a cooperative project under ACAP, and **endorse** Part I of the PCB project, which has financial and other support from all Arctic States. We **encourage** and support AMAP in its activities to complete Part I of this project;

18. **Agree** to work vigorously for the early ratification and implementation of the Protocols on the elimination or reduction of discharges, emissions and losses of Persistent Organic Pollutants (POPs) and of Heavy Metals under the framework of the United Nations Economic Commission for Europe Convention on Long-Range Transboundary Air Pollution. We **encourage** other states to do the same, with the aim to bring the Protocols into force as early as possible. We **fully support** regional cooperation to facilitate the delivery of the measures that are needed to meet the obligations of the Protocols on POPs and Heavy Metals;

19. **Strongly welcome** the establishment of an Intergovernmental Negotiating Committee under the auspices of United Nations Environment Programme to work towards the conclusion of a global agreement on POPs by the year 2000, and **encourage** the Arctic States to act together to assist the early conclusion of such a global agreement;

20. **Welcome** and **endorse** the Conservation of Arctic Flora and Fauna (CAFF) Strategic Plan for the Conservation of Arctic Biological Diversity as an overall framework for CAFF activities; **encourage** its timely implementation through more detailed Work Plans, to be approved by SAOs; and **welcome** CAFF's continued role in coordinating the implementation of the Circumpolar Protected Areas Network and the conservation strategies for murres and eiders;

21. **Welcome** CAFF's intention to prepare an overview on the status and trends in changes to ecosystems, habitats and species in the Arctic and to identify elements of a program to monitor circumpolar biological diversity and to assess, in collaboration with AMAP, the effects of climate change and UV-B radiation on Arctic ecosystems;

22. **Endorse** the Emergency, Prevention, Preparedness and Response (EPPR) Work Plan set forth in EPPR's Strategic Plan of Action; **ask** the working group to initiate new projects and activities as indicated in the chapters: Activity Areas and Possible Future Activities of the Work Plan; and **endorse** the development of a Circumpolar Map of Resources at Risk from Oil Spills in the Arctic;

23. **Welcome** the Field Guide for Oil Spill Response in Arctic Waters, as a source of information on how to deal with oil spills in the Arctic; and **take note** of both the report of Phase I Analysis of Communication and Notification Systems in Place for Arctic Risks and the Revised Environmental Risk Analysis of Arctic Activities;

24. **Welcome with appreciation** the Regional Programme of Action for the Protection of the Arctic Marine Environment from Land-based Activities (RPA); **agree** to work vigorously for the early implementation of the actions described in the first phase of the RPA and in a manner consistent with the associated international agreements and arrangements; **further agree** to develop additional actions to protect the Arctic marine environment; **recognize** the important role of the Protection of the Arctic Marine Environment (PAME) in the implementation and further development of the RPA; and **accept** the kind offer of the Government of Iceland to host the PAME Secretariat on a voluntary funding basis;

25. **Support** the efforts of the Russian Federation to develop and implement a Russian Programme of Action for the Protection of the Arctic Marine Environment from Land-based Activities (Russian NPA-Arctic); including seeking appropriate support to help Russia finalize the Russian NPA-Arctic and host a Partnership Conference to be organized with the assistance of the Advisory Committee on Protection of the Sea which would seek funds to remediate regional priority pollution sources and activities identified in the RPA and Russian NPA-Arctic;

26. **Promote** the application of the Arctic Offshore Oil and Gas Guidelines and recommend their review in the year 2000; the assessment of current and potential shipping activities to assist in determining what, if any, additional Arctic shipping measures are required, including work on an International Code of Safety for Ships Operating in Polar Waters (Polar Code) under the auspices of the International Maritime Organization (IMO); and an assessment of the adequacy of existing international agreements and arrangements related to the protection of the Arctic marine environment;

27. **Acknowledge with appreciation** the voluntary contributions in support of the Working Group secretariats and request that Arctic States consider taking part in voluntary, adequate and reliable funding of all Working Group secretariats, as appropriate;

28. **Undertake** to strengthen our efforts to achieve reliable funding systems for all Arctic Council activities, including seeking support from other international and regional fora and governmental and non-governmental sources;

29. **Request** Arctic States to consider the financial questions involved in securing the participation of the Permanent Participants in the work of the Arctic Council and in the operations of the Indigenous Peoples' Secretariat. We **acknowledge with appreciation** the generous financial support by Denmark, Greenland and Canada to the Indigenous Peoples' Secretariat;

30. **Emphasize** the need for the Arctic Council and its programmes to cooperate closely with existing organizations such as the Barents Euro-Arctic Council, the Nordic Council of Ministers, and other appropriate fora, including scientific bodies;

31. **Take note** of the statements and recommendations of the Third Conference of Parliamentarians of the Arctic Region, held April 22-24, 1998 in Salekhard, Russia, and of the Summary Report of the Circumpolar Conference and Workshop on Sustainable Development in the Arctic: Lessons Learned and the Way Ahead, held May 12-14, 1998 in Whitehorse, Canada, as well as the Experts Workshop on Sustainable Development in Northern Timberline Forests, May 10-11, 1998 in Whitehorse, Canada; and **encourage** SAOs to consider the recommendations in the development of project proposals and future activities of the sustainable development program;

32. **Acknowledge with appreciation** Canada's role in chairing the Arctic Council since its inauguration and in hosting the first Ministerial Meeting of the Arctic Council;

33. **Accept with appreciation** the offer of the United States of America to chair the Arctic Council and to host the second Ministerial Meeting of the Council in 2000.

Signed by the representatives of the Arctic States in Iqaluit, this 18th day of September 1998.

For the Government of Canada

[Signature]
Lloyd Axworthy
Minister of Foreign Affairs

For the Government of Finland

[Signature]
Pekka Haavisto
Minister of Environment and
Minister at the Foreign Ministry
(development co-operation)

For the Government of Norway

[Signature]
Knut Vollebäek
Minister for Foreign Affairs

For the Government of Sweden

[Signature]
Anders Bjurner
Deputy State Secretary

For the Government of Denmark

[Signature]
Niels Helveg Petersen
Minister for Foreign Affairs

For the Government of Iceland

[Signature]
Gudmundur Bjarnason
Minister of the Environment

For the Government of The Russian Federation

[Signature]
Vladimir Goman
Chairman of the State Committee for the
Development of the North

For the Government of The United States of America

[Signature]
Wendy Sherman
Ambassador

MULTILATERAL

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Treaty for Amazonian Cooperation, Brasilia, 1978

Done at Brasilia 3 July 1978

Entered into force 12 August 1980

Depositary: Brazil

Primary source citation: United Nations Treaty Series

TREATY FOR AMAZONIAN COOPERATION

The Republics of Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela,

Conscious of the importance to each one of the Parties of their respective Amazonian regions as an integral part of their respective territories,

Inspired by the common aim of pooling the efforts being made, both within their respective territories as well as among themselves, to promote the harmonious development of the Amazon region, to permit an equitable distribution of the benefits of said development among the Contracting Parties so as to raise the standard of living of their peoples and so as to achieve total incorporation of their Amazonian territories into their respective national economies,

Conscious of the usefulness of sharing national experiences in matters pertaining to the promotion of regional development,

Considering that, so as to achieve overall development of their respective Amazonian territories, it is necessary to maintain a balance between economic growth and conservation of the environment,

Conscious that both socio-economic development as well as conservation of the environment are responsibilities inherent in the sovereignty of each State, and that cooperation among the Contracting Parties shall facilitate fulfillment of these responsibilities, by continuing and expanding the joint efforts being made for the ecological conservation of the Amazon region,

Confident that cooperation among the Latin American nations on specific matters which they have in common shall contribute to progress on the road towards the integration and solidarity of all Latin America,

Convinced that this Treaty represents the beginning of a process of cooperation which shall benefit their respective countries and the Amazon region as a whole,

Resolve to sign the following Treaty:

Article I. The Contracting Parties agree to undertake joint actions and efforts to promote the harmonious development of their respective Amazonian territories in such a way that these joint actions produce equitable and mutually beneficial results and achieve also the preservation of the environment, and the conservation and rational utilization of the natural resources of those territories.

Paragraph: To this end, they would exchange information and prepare operational agreements and understandings as well as the pertinent legal instruments which will permit the aims of the present Treaty to be attained.

Article II. This Treaty shall be in force in the territories of the Contracting Parties in the Amazonian Basin as well as in any territory of a Contracting Party which, by virtue of its geographical, ecological or economic characteristics, is considered closely connected with that Basin.

Article III. In accordance with and without prejudice to the rights granted by unilateral acts, to the provisions of bilateral treaties among the Parties and to the principles and rules of International Law, the Contracting Parties mutually guarantee on a reciprocal basis that there shall be complete freedom of commercial navigation on the Amazon and other international Amazonian rivers, observing the fiscal and police regulations in force now or in the future within the territory of each. Such regulations should, insofar as possible, be uniform and favour said navigation and trade.

Paragraph: This article shall not apply to cabotage.

Article IV. The Contracting Parties declare that the exclusive use and utilization of natural resources within their respective territories is a right inherent in the sovereignty of each state and that the exercise of this right shall not be subject to any restrictions other than those arising from International Law.

Article V. Taking account of the importance and multiplicity of the functions which the Amazonian rivers have in the process of economic and social development of the region, the Contracting Parties shall make efforts aimed at achieving rational utilization of the hydro resources.

Article VI. In order to enable the Amazonian rivers to become an effective communication link among the Contracting Parties and with the Atlantic Ocean, the riparian states interested in any specific problem affecting free and unimpeded navigation shall, as circumstances may warrant, undertake national, bilateral or multilateral measures aimed at improving and making the said rivers navigable.

Paragraph: For this purpose, they shall carry out studies into the means for eliminating physical obstacles to the said navigation as well as the economic and financial implications so as to put into effect the most appropriate operational measures.

Article VII. Taking into account the need for the exploitation of the flora and fauna of the Amazon region to be rationally planned so as to maintain the ecological balance within the region and preserve the species, the Contracting Parties decide to:

a. Promote scientific research and exchange information and technical personnel among the competent agencies within the respective countries so as to increase their knowledge of the flora and fauna of their Amazon territories and prevent and control diseases in said territories.

b. Establish a regular system for the proper exchange of information on the conservationist measures adopted or to be adopted by each State in its Amazonian territories; these shall be the subject of an annual report to be presented by each country.

Article VIII. The Contracting Parties decide to promote coordination of the present health services in their respective Amazonian territories and to take other appropriate measures to improve the sanitary conditions in the region and perfect methods for preventing and combating epidemics.

Article IX. The Contracting Parties agree to establish close cooperation in the fields of scientific and technological research, for the purpose of creating more suitable conditions for the acceleration of the economic and social development of the region.

Paragraph One: For purposes of this Treaty, the technical and scientific cooperation among the Contracting Parties may be as follows:

a. Joint or coordinated implementation of research and development programmes;

b. Creation and operation of research institutions or centres for improvement and experimental production;

c. Organization of seminars and conferences, exchange of information and documentation, and organization of means for their dissemination.

Paragraph Two: The Contracting Parties may, whensoever they deem it necessary and convenient, request the participation of international agencies in the execution of studies, programmes and projects resulting from the forms of technical and scientific cooperation defined in Paragraph One of this Article.

Article X. The Contracting Parties agree on the advisability of creating a suitable physical infrastructure among their respective countries, especially in relation to transportation and communications. They therefore undertake to study the most harmonious ways of establishing or improving road, river, air and telecommunication links bearing in mind the plans and programmes of each country aimed at attaining the priority goal of fully incorporating those respective Amazonian territories into their respective national economies.

Article XI. In order to increase the rational utilisation of the human and natural resources of their respective Amazonian territories, the Contracting Parties agree to encourage joint studies and measures aimed at promoting the economic and social development of said territories and generating complementary methods for reinforcing the actions envisaged in the national plans of their respective territories.

Article XII. The Contracting Parties recognise the benefit to be derived by developing, under equitable and mutually beneficial conditions, retail trade of products for local consumption among the respective Amazonian border populations, by means of suitable bilateral or multilateral agreements.

Article XIII. The Contracting Parties shall cooperate to increase the flow of tourists, both national and from third countries, in their respective Amazonian territories, without prejudice to national regulations for the protection of indigenous cultures and natural resources.

Article XIV. The Contracting Parties shall cooperate in ensuring that measures adopted for the conservation of ethnological and archeological wealth of the Amazon region are effective.

Article XV. The Contracting Parties shall seek to maintain a permanent exchange of information and cooperation among themselves and with the agencies for Latin American cooperation in the areas pertaining to matters covered by this Treaty.

Article XVI. The decisions and commitments adopted by the Contracting Parties under this Treaty shall not be to the detriment of projects and undertakings executed within their respective territories, according to International Law and fair practice between neighboring and friendly countries.

Article XVII. The Contracting Parties shall present initiatives for undertaking studies for the elaboration of programmes of common interest for developing their Amazonian territories and in general terms provide for the fulfillment of the actions contemplated in the present Treaty.

Paragraph: The Contracting Parties agree to give special attention to the consideration of initiatives presented by the least developed countries which require joint action and efforts by the Contracting Parties.

Article XVIII. Nothing contained in this Treaty shall in any way limit the rights of the Contracting Parties to conclude bilateral or multilateral agreements on specific or generic matters, provided that these are not contrary to the achievement of the common aims for cooperation in the Amazonian region stated in this instrument.

Article XIX. Neither the signing of this Treaty nor its execution shall have any effect on any other international treaties in force between the Parties nor on any differences with regard to limits or territorial rights which may exist between the Parties nor shall the signing or implementation of this Treaty be interpreted or invoked to imply acceptance or renunciation, affirmation or modification, direct or indirect, express or tacit, of the position or interpretation that each Contracting Party may hold on these matters.

Article XX. Notwithstanding the fact that more adequate frequency for meetings can be established at a later date, the Ministers of Foreign Affairs of the Contracting Parties shall convene meetings when deemed opportune or advisable, in order to establish the basic guidelines for common policies, for assessing and evaluating the general development or the process of Amazonian cooperation and for taking decisions designed to carry out the aims set out in this document.

Paragraph One: Meetings of Foreign Affairs Ministers shall be convened at the request of any of the Contracting Parties, provided that the request has the support of no fewer than four Member States.

Paragraph Two: The first meeting of Foreign Affairs Ministers shall be held within a period of two years following the date of entry into force of this Treaty. The venue and date of the first meeting shall be established by agreement among the Ministries of Foreign Affairs of the Contracting Parties.

Paragraph Three: Designation of the host country for the meetings shall be by rotation and in alphabetical order.

Article XXI. The Amazonian Cooperation Council comprising top-level diplomatic representatives shall meet once a year. Its duties shall be as follows:

1. To ensure that the aims and objectives of the Treaty are complied with.

2. To be responsible for carrying out the decisions taken at meetings of Foreign Affairs Ministers.

3. To recommend to the Parties the advisability and the appropriateness of convening meetings of Foreign Affairs Ministers and of drawing up the corresponding Agenda.

4. To take under consideration initiatives and plans presented by the Parties as well as to adopt decisions for undertaking bilateral or multilateral studies and plans, the execution of which, as the case may be, shall be the duty of the Permanent National Commissions.

5. To evaluate the implementation of plans of bilateral or multilateral interest.

6. To draw up the Rules and Regulations for its proper functioning.

Paragraph One: The Council shall hold special meetings through the initiative of any of the Contracting Parties with the support of the majority of the rest.

Paragraph Two: The venue of regular meetings shall be rotated in alphabetical order among the Contracting Parties.

Article XXII. The functions of the Secretariat shall be performed *pro tempore* by the Contracting Party in whose territory the next regular meeting of the Amazonian Cooperation Council is scheduled to be held.

Paragraph: The *pro tempore* Secretariat shall send the pertinent documentation to the Parties.

Article XXIII. The Contracting Parties shall create Permanent National Commissions charged with enforcing in their respective territories the provisions set out in this Treaty, as well as carrying out the decisions taken at meetings of Foreign Affairs Ministers and by the Amazonian Cooperation Council, without jeopardizing other tasks assigned them by the State.

Article XXIV. Whenever necessary, the Contracting Parties may set up special Commissions to study specific problems or matters related to the aims of this Treaty.

Article XXV. Decisions at meetings held in accordance with Articles XX and XXI shall always require the unanimous vote of the Member Countries of this Treaty. Decisions made at meetings held in accordance with Article XXIV shall always require the unanimous vote of the participating countries.

Article XXVI. The Contracting Parties agree that the present Treaty shall not be susceptible to interpretative reservations or statements.

Article XXVII. This Treaty shall remain in force for an unlimited period of time, and shall not be open to adherence.

Article XXVIII. This Treaty shall be ratified by all the Contracting Parties and the instruments of ratification shall be deposited with the Government of the Federative Republic of Brazil.

Paragraph One: This Treaty shall become effective thirty days after the last instrument of ratification has been deposited by the Contracting Parties.

Paragraph Two: The intention to denounce this Treaty shall be communicated by a Contracting Party to the remaining Contracting Parties at least ninety days prior to formal delivery of the instrument of denunciation to the Government of the Federative Republic of Brazil. This Treaty shall cease to have effect for the Contracting Party denouncing it one year after the denunciation has been formalized.

Paragraph Three: This Treaty shall be drawn up in English, Dutch, Portuguese and Spanish, all having equal validity.

IN WITNESS WHEREOF the undersigned Ministers of Foreign Affairs have signed the present Treaty.

EXECUTED in the city of ....., on .....to be deposited in the archives of the Ministry of Foreign Affairs of Brazil which shall provide the other signatory countries with true copies.

For the Government of the Republic of Bolivia:	OSCAR ADRIÁZOLA VALDA
For the Government of the Federative Republic of Brazil:	ANTONIO F. AZEREDO DA SILVEIRA
For the Government of the Republic of Colombia:	INDALECIO LIÉVANO AGUIRRE
For the Government of the Republic of Ecuador:	JOSÉ AYALA LASSO
For the Government of the Cooperative Republic of Guyana:	RASHLEIGH ESMOND JACKSON
For the Government of the Republic of Peru:	JOSÉ DE LA PUENTE RADBILL
For the Government of the Republic of Suriname:	HENCK ALFONSUS EUGENE ARRON
For the Government of the Republic of Venezuela:	SIMÓN ALBERTO CONSALVI

Protocol of Termination of the Convention on the Conservation of the Living Resources of the Southeast Atlantic of 23 October 1969, Madrid, 1990

Done at Madrid 19 July 1990

Entered into force (not in force)

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

FINAL ACT

1. The International Commission for the Southeast Atlantic Fisheries at its Mid-term Extraordinary Meeting held in Madrid in May, 1990, decided to call a Conference of Plenipotentiaries to adopt a Protocol of Termination for the Convention on the Conservation of the Living Resources of the Southeast Atlantic.

2. The Conference of Plenipotentiaries met at the Ministry of Foreign Affairs on 19th July 1990.

3. The Governments of sixteen Contracting Parties to the Convention were represented: Republic of Angola, Bulgaria, Cuba, France, German Democratic Republic, Federal Republic of Germany, Israël, Italy, Japan, Republic of Korea, Poland, Portugal, Rumania, Republic of South Africa, Spain and the Union of Soviet Socialist Republics.

4. The Conference elected Mr. Luis de Andrés (First Vice-Chairman of the Commission) as President.

5. The Conference had before it a draft Protocol of Termination prepared by the International commission for the Southeast Atlantic Fisheries.

6. On the basis of its deliberations, the Conference adopted the Protocol which is reproduced in the Annex hereto.

IN WITNESS WHEREOF the following representatives signed this Final Act:

For the REPUBLIC OF ANGOLA	Kamu de Almeida	[signature]
For BULGARIA	Boyka Ivanova Nicheva	[signature]
For CUBA	Manuel Basabe del Val	[signature]
For FRANCE	Henri Benoit de Coignac	[signature]
For the GERMAN DEMOCRATIC REPUBLIC	Karl Heinz Ehlerf	[signature]
For the FEDERAL REPUBLIC OF GERMANY	Georg Trefftz	[signature]
For ISRAEL	Yehuda Atsmony	[signature]
For ITALY	Armando Sanguini	[signature]
For JAPAN	Hirotsugu Amamiya	[signature]
For the REPUBLIC OF KOREA	Myung Kwan Chang	[signature]
For POLAND	Wojciech Woicki	[signature]
For PORTUGAL	João de Valera	[signature]
For RUMANIA	Pavel Moldoveanu	[signature]
For the REPUBLIC OF SOUTH AFRICA	François Van der Merwe	[signature]
For SPAIN	Camilo Villarino	[signature]
For the UNION OF SOVIET SOCIALIST REPUBLICS	Konstantine Mozel	[signature]

DONE AT Madrid this nineteenth day of July one thousand nine hundred and ninety, in a single copy in the English, French and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the Food and Agriculture Organization of the United Nations.

PROTOCOL OF TERMINATION

The Contracting Parties to the Convention on the Conservation of the Living Resources of the Southeast Atlantic concluded in Rome on 23rd October 1969, which entered into force on 24th October 1971;

Recognizing that important events have taken place which influence the objectives of the Convention;

Considering that these events have reduced the practical effect of the Convention to a degree which is incompatible with the pursual of its activities;

Bearing in mind the Vienna Convention on the Law of Treaties concluded at Vienna on 23rd May 1969 and, in particular, Article 54 of that Convention entitled "Termination of or withdrawal from a treaty under its provisions or by consent of the parties" which provides that:

" The termination of a treaty or the withdrawal of a party may take place:

(a) In conformity with the provisions of the treaty; or

(b) At any time by consent of all the parties after consultation with the other contracting States. "

Have agreed as follows:

Article I

The Convention shall terminate when all Contracting Parties have deposited an instrument of acceptance with the Director General of the Food and Agriculture Organization of the United Nations.

Article II

Instruments of acceptance of this Protocol shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations, who shall inform the Governments of the Contracting Parties of the deposit thereof and the entry into force of this Protocol.

Article III

This Protocol shall be open for signature by the Government of any State represented at the Conference which adopted the Protocol, or by the Government of any other State which is a member of the International Commission for the Southeast Atlantic Fisheries, until the thirtieth of November one thousand nine hundred and ninety.

DONE AT Madrid, this nineteenth day of July one thousand nine hundred and ninety, in a single copy in the English, French and Spanish languages, each version being equally authoritative.

Agreement on the Organization for Indian Ocean Marine Affairs Cooperation, Arusha, 1990

Done at Arusha 7 September 1990

Entered into force (not in force)

Depositary: Sri Lanka

Primary source citation: Copy of text provided by the United Nations

Agreement on the Organization for Indian Ocean

Marine Affairs Co-operation (IOMAC)

The Contracting States,

Being coastal and hinterland States of the Indian Ocean,

Bearing in mind the resources of the Indian Ocean and their potential for contributing to the economic and social development of the States of the region, and for promoting co-operation among them as well as between them and other States, in the light of the new ocean régime embodied in the United Nations Convention on the Law of the Sea,

Reaffirming their commitment to the peaceful development and rational management of the Indian Ocean,

Recalling the First Conference on Economic, Scientific and Technical Co-operation in Marine Affairs in the Indian Ocean, in the context of the new ocean régime, held at the Ministerial level in Colombo in 1987, and the progress achieved thereafter in such co-operation,

Considering it desirable that the principles applicable to such co-operation and the institutions of such co-operation be formally recognized,

Hereby agree as follows:

I

DEFINITIONS

Article 1

Definitions

For the purposes of this Agreement:

"coastal State of the Indian Ocean" means a State the coast of which borders on, or is contained within, the Indian Ocean or the adjacent seas or gulfs thereof;

"hinterland State" means a State which is immediately adjacent to a coastal State of the Indian Ocean;

"land-locked State" shall have the same meaning as in the United Nations Convention on the Law of the Sea;

"geographically disadvantaged State" shall have the same meaning as in the United Nations Convention on the Law of the Sea;

"active in marine affairs in the Indian Ocean" means having substantial marine affairs activities in the Indian Ocean or its adjacent seas or gulfs.

II

GENERAL PROVISIONS

Article 2

Establishment

1. The Organization for Indian Ocean Marine Affairs Co-operation (IOMAC) hereinafter referred to as the "Organization" is hereby established.

2. The headquarters of the Organization shall be in Colombo, Sri Lanka.

Article 3

Objectives

The objectives of the Organization shall be:

(a) To create an awareness regardness the Indian Ocean, its resources and potential for the development of the States of the region, and promoting co-operation among them, as well as between them and other States, bearing in mind the ocean régime embodied in the United Nations Convention on the Law of the Sea;

(b) To provide a forum where the coastal and hinterland States of the Indian Ocean and other interested States could consider, examine and review the economic uses of the Indian Ocean, its resources and related activities including those undertaken within the framework of intergovernmental organizations, and to identify fields in which they could benefit from enhanced international co-operation, co-ordination and concerted action;

(c) To enhance the economic and social development of the coastal and hinterland States of the Indian Ocean through integration of ocean-related activities in their respective development processes, and to further a policy of integrated ocean management through regular and continuing dialogue and co-operative international and regional action with particular emphasis on technical co-operation among developing countries.

Article 4

Principles and fields of co-operation

1. Principles of co-operation in marine affairs in the Indian Ocean shall be:

(a) optimization of the utilization of the resources of the Indian Ocean for the benefit of the States of the Indian Ocean;

(b) development of national capabilities in marine affairs with a view to promoting self-reliance in ocean

management;

(c) enhancement of co-operation with other States;

(d) establishment and maintenance of effective co-operation with international, governmental, and non-governmental organizations, agencies and other entities active in marine affairs; and

(e) due regard to the rights and needs of the land-locked and geographically disadvantaged Member States recognized in the new ocean régime.

2. Fields of co-operation in marine affairs in the Indian Ocean shall be:

(a) marine science, ocean services and marine technology;

(b) living resources;

(c) non-living resources;

(d) ocean law, policy and management;

(e) marine transport and communications;

(f) marine environment; and

(g) other fields relevant to co-operation in marine affairs.

III

INSTITUTIONAL PROVISIONS

Article 5

Membership

Any coastal or hinterland State of the Indian Ocean may become a Member of the Organization by becoming a party to this Agreement.

Article 6

Structure of the Organization

The organization shall have the following principal bodies:

(a) the Conference;

(b) the Committee; and

(c) the Secretariat.

Article 7

The Conference

Composition

1. The Conference shall be composed of representatives at a ministerial or equivalent level of all the Members of the Organization.

Functions

2. The Conference shall:

(a) establish policies and principles which shall govern the programmes and activities of the Organization;

(b) elect the members of the Committee of the Organization in accordance with the provisions of article 8, paragraph 1, below;

(c) appoint the Secretary-General of the Organization;

(d) receive and consider the reports of the Committee and of the Secretary-General;

(e) approve the budget and accounts of the Organization for each financial period;

(f) approve proposals for programmes and activities of the Organization;

(g) establish such subsidiary bodies as it may deem necessary;

(h) examine disputes that may arise concerning the interpretation or application of this Agreement and make such recommendations, and if necessary establish such procedures as it may deem appropriate with a view to their solution;

(i) establish its rules of procedure except as otherwise provided in this Agreement;

(j) establish the financial regulations of the Organization;

(k) establish the staff regulations of the Organization and provide for conditions of service consistent as far as possible with those of other international organizations;

(l) exercise such other functions as may be permissible under this Agreement.

Meetings and procedure

3. The Conference shall meet in regular session once every two years.

4. The Conference shall meet in special session whenever a majority of its Members of the Committee requests the convening of a special session.

5. A quorum for meetings of the Conference shall be two-thirds of the Members of the Organization.

6. Each Member shall have one vote.

7. The Conference shall endeavour to reach its decisions by consensus. Where consensus is not possible, decisions of the Conference shall unless otherwise provided in this Agreement be made by a majority of the Members present and voting.

8. The Conference shall at each regular session elect from amongst the Members its President and Vice-Presidents. They shall hold office until the election of their successors at the next regular session of the Conference.

9 Representatives of Governments not Members of the Organization, representatives of the United Nations and the appropriate agencies and bodies of the United Nations, representatives of such other international and national governmental or non-governmental organizations as the Conference may deem appropriate, and experts in fields of interest to the Conference may be invited to attend meetings of the Conference as observers. If one-third of the Members of the Organization objects to the invitation of an observer to the Conference, that observer shall not be invited thereafter.

10 Sessions of the Conference shall be held at the headquarters of the Organization unless the Conference decides otherwise.

Article 8

The Committee

Composition

1. The Conference shall determine the size and elect the members of the Committee from amongst the Members of the Organization, and shall endeavour to ensure that the major geographical areas and the principal ocean-related interests (namely, land-locked, geographically disadvantaged, maritime, coastal and archipelagic) shall be represented in the Committee.

Functions

2. The Committee which shall be the executive body of the Organization shall:

(a) provide the necessary policy guidance for the implementation of the Programme of Co-operation and Plan of Action of the Organization, and for the furthering of co-operation through the framework of the Organization;

(b) consider the implementation of decisions taken by the Conferences;

(c) supervise the administration and finances of the Organization;

(d) submit to the Conference, for its approval, the budget estimates and accounts of the Organization, together with comments and recommendations;

(e) submit to the Conference, for its approval, proposals for programmes and activities of the Organization;

(f) authorize the Secretary-General to take whatever steps the Committee considers necessary for achieving the objectives of the Organization;

(g) establish its rules of procedure except as otherwise provided in this Agreement; and

(h) exercise such other functions as may be referred to it by the Conference.

Meetings and procedure

3. The Committee shall meet in regular session once a year.

4. The Committee shall meet in special session whenever a majority of the members of the Committee request the convening of a special session.

5. A quorum for meetings of the Committee shall be two-thirds of the members of the Committee.

6. The Committee shall elect a Chairman and a Vice-Chairman.

7. Members of the Organization not elected to the Committee may participate at its meetings without a vote.

8. The Committee shall endeavour to reach its decisions by consensus. Where consensus is not possible, decisions of the Committee shall, unless otherwise provided in this Agreement, be made by a majority of its members present and voting.

9. Representatives of Governments not Members of the Organization, representatives of the United Nations and the appropriate agencies and bodies of the United Nations, representatives of such other international and national governmental and non-governmental organizations as the Committee may deem appropriate, and experts in fields of interest to the Committee may be invited to attend meetings of the Committee as observers. If one third of the Members of the Organization objects to the invitation of an observer to the Committee that observer shall not be invited thereafter.

Article 9

The Secretariat

1. The Secretariat shall be composed of the Secretary-General, who shall be the chief administrative officer of the Organization, and such staff as the Organization may require.

2. The Secretary-General shall be appointed by the Conference for a period of four years on such terms as the Conference shall determine, and shall be eligible for reappointments.

3. The Secretary-General shall as chief administrative officer, be responsible under the guidance of the Committee for the administration of the Organization and its programmes. He shall ensure that the Organization shall be an effective and dynamic channel of co-operation in marine affairs in the Indian Ocean.

4. The Secretary-General shall:

(a) serve as Secretary of the Conference and of the Committee;

(b) report to the Conference and to the Committee on the administration of the programmes and activities of the Organization;

(c) report to the Conference and the Committee on the financial and other resources available to the Organization;

(d) having regard to the importance of ensuring efficiency and equitable geographical representation, appoint such staff as may be necessary for the proper functioning of the Secretariat;

(e) prepare and submit to the Committee the budget estimates and accounts of the Organization, and proposals for programmes and activities for the consideration of the Committee;

(f) perform such other tasks as may be entrusted to him by the Conference or the Committee.

5. The Secretary-General shall be responsible to the Conference in the performance of his functions.

Article 10

Legal status

The Organization shall have juridical personality and the capacity necessary for the performance of its functions and, in particular, to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Article 11

Facilities, privileges and immunities

1. Each Member of the Organization shall accord to the Organization, its representatives, officials and consultants such facilities, privileges and immunities as it accords to intergovernmental organizations of a similar nature.

2. The Organization shall conclude a headquarters agreement with the Government of Sri Lanka. Until such time as a headquarters agreement is concluded, the Government of Sri Lanka shall accord to the Organization, its representatives, officials and consultants such facilities, privileges and immunities as it accords to intergovernmental organizations of a similar nature.

Article 12

Relations with other organizations

The Organization shall establish effective relations and co-operate closely with the United Nations and the appropriate agencies and bodies of the United Nations, as well as with other governmental and non-governmental organizations, agencies and institutes that are active in marine affairs.

IV

RESOURCES

Article 13

Resources

1. The resources of the Organization shall include:

(a) the financial contributions of the Members of the Organization in accordance with paragraph 2 of this article;

(b) such additional financial contributions as Members may wish to make to ensure that the programmes and activities of the Organization proceed on a sound financial basis;

(c) other funds whose receipt is consistent with the purposes of the Organization as determined by the Secretary-General in consultation where necessary with the Committee;

(d) contributions of a non-financial nature whose receipt is consistent with the purposes of the Organization as determined by the Secretary-General in consultation where necessary with the Committee.

2. The financial contributions of the Members of the Organization shall consist of a yearly contribution from each Member, made in United States dollars, as follows:

(a) a sum arrived at by dividing 50 per cent of the required and approved budget of the Organization equally amongst all the Members of the organization; and

(b) an additional sum, the amount of which shall be determined periodically by the Secretariat and approved by the Committee, to meet its share of the remainder of the required and approved budget. Such amount shall be calculated on the basis of the rates of assessment applicable in the United Nations, to the Members of the Organization with respect to their contributions to the regular budget of the United Nations.

Provided that the contributions under sub-paragraphs (a) and (b) above, of any Member of the Organization shall not in the aggregate exceed $30,000 a year for the first financial period of the Organization and, thereafter, such fixed annual sum for each subsequent financial period as the Conference shall determine.

3. A Member which is in arrears in the payment of its contributions under paragraph 2 above to the budget of the Organization to the extent that the amount of its arrears is equivalent to or exceeds the sum of its required contributions, under paragraph 2 above, for the two preceding calendar years, shall cease to be entitled to vote in the Conference and to be represented in the Committee. The Conference may nevertheless permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Article 14

Management of resources

1. The Conference and the Committee shall at each of its sessions review the status of the resources of the Organization and shall make such recommendations to the Members of the Organization, as may be deemed appropriate, to ensure that timely and adequate resources are always available to the Organization and its programmes, and that a reasonable balance between such resources and the programmes and activities of the Organization is maintained.

2. The resources of the Organization shall be administered on a sound economic and financial basis.

3. Rules for the receipt, custody and expenditure of the financial and non-financial resources of the Organization and for the auditing of its accounts shall be established by the Secretary-General with the approval of the Committee.

V

FINAL PROVISIONS

Article 15

Signature, ratification, accession

1. Any coastal or hinterland State of the Indian Ocean may become a party to this agreement by:

   (a) signing this Agreement subject to ratification, acceptance or approval, and, thereafter, depositing an instrument of ratification, acceptance or approval; or

   (b) acceding to this Agreement.

2. This Agreement shall be open for signature at the Ministry of Foreign Affairs, Dar es Salaam, United Republic of Tanzania and at the secretariat of the organization for Indian Ocean Marine Affairs Co-operation, in Colombo, Sri Lanka, until its entry into force.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of Sri Lanka.

Article 16

Entry into force

1. This Agreement shall enter into force on the thirtieth day after eight States have become parties to this Agreement in accordance with article 15.

2. For each State depositing an instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, the Agreement shall enter into force on the thirtieth day after such deposit.

Article 17

Amendment

1. Any party to this Agreement may propose an amendment to this Agreement.

2. The text of the proposed amendment shall be communicated by the Secretary-General to all the parties to this Agreement at least six months in advance of consideration of the proposed amendment by the Conference.

3. If approved by a two-thirds majority in the Conference, the proposed amendment shall, nevertheless, only enter into force for all parties to this Agreement on the thirtieth day after deposit of instruments of acceptance or approval of the proposed amendment by two thirds of the parties to this Agreement.

Article 18

Withdrawal from the organization

1. Any Member of the Organization may withdraw from this Agreement and, in doing so, from its Membership in the Organization by giving written notice of withdrawal to the depositary of this Agreement and to the Secretary-General.

2. The withdrawal shall take effect six months after the date of receipt of the notification by the depositary.

3. A Member withdrawing from the Organization shall continue to be responsible for the obligations incurred within the period of its membership.

Article 19

Dissolution of the Organization

1. The Conference may, by a two-thirds majority of its Members, resolve that the Organization shall be dissolved.

2. On the endorsement of such a resolution by two thirds of the States parties to this Agreement in notifications addressed to the President of the Conference the necessary steps shall be taken by the Conference for the dissolution of the organization. These steps shall include the establishment by the Conference of a committee to advise the Conference, in consultation with the Committee and the Secretary-General, on the manner in which the assets and obligations of the organization should be liquidated prior to its dissolution.

3. The Conference shall, at the appropriate stage, adopt a final declaration stating that on a specified date the Organization shall be deemed dissolved. The declaration shall be communicated by the President of the Conference to the Members of the Organization and to the depositary of this Agreement.

Article 20

Depositary

The two original copies of this Agreement shall be deposited with the Government of Sri Lanka which will be the depositary of this Agreement in accordance with the Vienna Convention on the Law of Treaties.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Arusha, the United Republic of Tanzania, in two copies in the English language this seventh day of September one thousand nine hundred and ninety.

Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, Lusaka, 1994

Done at Lusaka 9 September 1994

Entered into force 16 April 1998

Depositary Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

Preamble

THE PARTIES TO THIS AGREEMENT,

Conscious that the conservation of wild fauna and flora is essential to the overall maintenance of Africa's biological diversity and that wild fauna and flora are essential to the sustainable development of Africa,

Conscious also of the need to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Recognising that the intense poaching that has resulted in severe depletion of certain wildlife populations in African States has been caused by illegal trade, and that poaching will not be curtailed until such illegal trade is eliminated,

Noting that illegal trade in wild fauna and flora has been made more sophisticated through the use of superior technology in transboundary transactions and should be addressed through commensurate national, regional and international measures,

Recalling the provisions of the African Convention on the Conservation of Nature and Natural Resources (Algiers, 1968), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 1973), and the Convention on Biological Diversity (Rio de Janeiro, 1992),

Affirming that States are responsible for the conservation of their wild fauna and flora,

Recognising the need for co-operation among States in law enforcement to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Recognising also that sharing of information, training, experience and expertise among States is vital for effective law enforcement to reduce and ultimately eliminate illegal trade in wild fauna and flora,

Desirous of establishing close co-operation among themselves in order to reduce and ultimately eliminate illegal trade in wild fauna and flora,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Agreement:

"Agreement area" means the area comprised of the land, marine and coastal areas within the limits of national jurisdiction of the Parties to this Agreement and shall include their air space and internal waters.

"Biological diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"Conservation" means the management of human use of organisms of ecosystems to ensure such use is sustainable; it also includes protection, maintenance, rehabilitation, restoration and enhancement.

"Country of original export" means the country where the specimens originated and from whose territory they depart or have departed.

"Country of re-export" means the country from whose territory specimens depart or have departed and that is not the country of origin of the specimens.

"Field Officer" means a member of a Government organisation, department or institution who is employed as a law enforcement officer with national law enforcement jurisdiction, and who is seconded to the Task Force.

"Governing Council" means the Governing Council established under Article 7 of this Agreement.

"Illegal trade" means any cross-boarder transaction, or any action in furtherance thereof, in violation of national laws of a Party to this Agreement for the protection of wild fauna and flora.

"National Bureau" means a governmental entity with the competence encompassing law enforcement, designated or established by a Party to this Agreement under Article 6.

"Party" means a State for which this Agreement has entered into force.

"Specimen" means any animal or plant, alive or dead, as well as any derivative thereof, of any species of wild fauna and flora.

"Task Force" means the Task Force established under Article 5 of this Agreement.

"Wild fauna and flora" means wild species of animals and plants subject to the respective national laws of the Parties governing conservation, protection and trade.

Article 2

Objective

The objective of this Agreement is to reduce and ultimately eliminate illegal trade in wild fauna and flora and to establish a permanent Task Force for this purpose.

Article 3

Geographical Scope

This Agreement shall apply to the Agreement area as defined in Article 1.

Article 4

Obligations of the Parties

1. The Parties shall, individually and or jointly, take appropriate measures in accordance with this Agreement to investigate and prosecute cases of illegal trade.

2. Each Party shall co-operate with one another and with the Task Force to ensure the effective implementation of this Agreement.

3. Each Party shall provide the Task Force on a regular basis with relevant information and scientific data relating to illegal trade.

4. Each Party shall provide the Task Force with technical assistance relating to its operations, as needed by the Task Force.

5. Each Party shall accord to the Director, Field Officers and the Intelligence Officer of the Task Force wile engaged in carrying out the functions of the Task Force in accordance with paragraph 9 of Article 5, the relevant privileges and immunities, including those specified under paragraph 11 of Article 5.

6. Each Party shall protect information designated as confidential that becomes available to any of the Parties in connection with the implementation of this Agreement. Such information shall be used exclusively for the purposes of implementing this Agreement.

7. Each Party shall encourage public awareness campaigns aimed at enlisting public support for the objective of this Agreement, and the said campaigns shall be so designed as to encourage public reporting of illegal trade.

8. Each Party shall adopt and enforce such legislative and administrative measures as may be necessary for the purposes of giving effect to this Agreement.

9. Each Party shall return to the country of original export or country of re-export any specimen of species of wild fauna and flora confiscated in the course of illegal trade, provided that:

(a) the country of original export of the specimen(s) can be determined; or

(b) the country of re-export is able to show evidence that the specimen(s) re-exported were imported by that country in accordance with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora governing import and re-export; and

(c) the costs of returning such specimens of wild fauna and flora are borne by the country receiving the specimen(s), unless there is an alternative offer to bear costs to which both the Party returning the specimen(s) and the Party receiving the specimen(s) agree.

10. Each Party shall pay its contribution to the budget of the Task Force as determined by the Governing Council.

11. Each Party shall report to the Governing Council on implementation of its obligations under this Agreement at intervals as determined by the Governing Council.

Article 5

Task Force

1. A Task Force is hereby established to be known as the Task Force for Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora.

2. The Task Force shall be composed of a Director, Field Officers and an Intelligence Officer and such other

staff as may be decided by the Governing Council.

3. The Task Force shall include at least one Field Officer seconded by each Party and approved by the Governing Council. Each Field Officer shall be appointed to serve for a term of three years, or such other term as may be determined by the Governing Council. Upon the recommendation of the Director made in consultation with the Party concerned, the Governing Council may shorten or increase the term of other Field Officers.

4. The Director shall be appointed by the Governing Council from among the Field Officers.

5. The Director and other Field Officers shall retain their national law enforcement authority during their time of service with the Task Force.

6. The appointment of the Director, other Field Officers and the Intelligence Officer, as well as their terms of service, shall be decided in accordance with rules established by the Governing Council. The terms and conditions of service of other support staff as deemed necessary for the functioning of the Task Force shall also be decided by the Governing Council.

7. The Director shall be the Chief Executive Officer of the Task Force and shall be accountable to the Governing Council and responsible for:

(a) appointing other support staff as deemed necessary for the functioning of the Task Force;

(b) commanding and coordinating the work of the Task Force;

(c) preparing budgets annually or as required by the Governing Council;

(d) implementing policies and decisions agreed by the Governing Council;

(e) providing reports annually and as required by the Governing Council;

(f) arranging for and servicing meetings of the Governing Council; and

(g) performing such other functions as may be determined by the Governing Council.

8. The Task Force shall possess international legal personality. It shall have in the territory of each Party the legal capacity required for the performance of its functions under this Agreement. The Task Force shall int he exercise of its legal personality be represented by the Director.

9. The functions of the Task Force shall be:

(a) to facilitate co-operative activities among the National Bureaus in carrying out investigations pertaining to illegal trade;

(b) to investigate violations of national laws pertaining to illegal trade, at the request of the National Bureaus or with the consent of the Parties concerned, and to present to them evidence gathered during such investigations;

(c) to collect, process and disseminate information on activities that pertain to illegal trade, including establishing and maintaining databases;

(d) to provide, upon request of the Parties concerned, available information related to the return to the country of original export, or country of re-export, of confiscated wild fauna and flora; and

(e) to perform such other functions as may be determined by the Governing Council.

10. In carrying out its functions, the Task Force, when necessary and appropriate, may use undercover operations, subject to the consent of the Parties concerned and under conditions agreed with the said Parties.

11. For the purposes of paragraph 9 of this Article, the Director, other Field Officers and the Intelligence Officer of the Task Force shall enjoy, in connection with their official duties and strictly within the limits of their official

capacities, the following privileges and immunities:

(a) immunity from arrest, detention, search and seizure, and legal process of any kind in respect of words spoken or written and all acts performed by them; they shall continue to be so immune after the completion of their functions as officials of the Task Force;

(b) inviolability of all official papers, documents and equipment;

(c) exemption from all visa requirements and entry restrictions;

(d) protection of free communication to an from the headquarters of the Task Force;

(e) exemption from currency of exchange restrictions as is accorded representatives of foreign governments on temporary official missions; and

(f) such other privileges and immunities as may be determined by the Governing Council.

12. Privileges and immunities are granted to the Director, other Field Officers and the Intelligence Officer in the interests of the Task Force and not for the personal benefit of the individuals themselves. The Governing Council shall have the right and the duty to waive the immunity of any official in any case where, in the opinion of the Governing Council, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Task Force.

13. The Task Force shall not undertake or be involved in any intervention, or activities of a political, military, religious or racial character.

Article 6

National Bureau

1. To facilitate the implementation of this Agreement, each Party shall:

(a) designate or establish a governmental entity as its National Bureau;

(b) inform the Depositary, within two months of the date of the entry into force of the Agreement for this Party, the entity it has designated or established as its National Bureau; and

(c) inform the Depositary within one month of any decision to change the designation or establishment of its National Bureau.

2. For the purposes of this Agreement, the functions of the National Bureaus shall be to:

(a) provide to and receive from the Task Force information on illegal trade; and

(b) coordinate with the Task Force on investigations that involve illegal trade.

Article 7

Governing Council

1. A Governing Council consisting of the Parities to this Agreement is hereby established to be known as the Governing Council for Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora.

2. Each Party shall send a delegation to the meetings of the Governing Council and shall be represented on the Governing Council by a Minister or alternate who shall be the head of the delegation. Because of the technical nature of the Task Force, Parties should endeavour to include the following in their delegations:

(a) high ranking officials dealing with wildlife law enforcement affairs;

(b) officials whose normal duties are connected with the activities of the Task Force; and

(c) specialists in the subjects on the agenda.

3. The first meeting of the Governing Council shall be convened by the Executive Director of the United Nations Environment Programme not later than three months after the entry into force of this Agreement. Thereafter, ordinary meetings of the Governing Council shall be held at regular intervals to be determined by the Council at its first meeting.

4. Meetings of the Governing Council will normally be held at the Seat of the Task Force unless the Council decides otherwise.

5. Extraordinary meetings of the Governing Council shall be held at such times as may be determined by the Council, or at the written request of any Party, provided that such request is supported by at least one third of the Parties within two months of the request being communicated to them by the Director of the Task Force.

6. At its first meeting, the Governing Council shall:

(a) by consensus elect its Chairperson and adopt rules of procedure, including decision-making procedures, which may include specified majorities required for adoption of particular decisions;

(b) decide the Seat of the Task Force;

(c) consider and approve the appointment of the Director, other Field Officers and the Intelligence Officer and decide upon their terms and conditions of service as well as the terms and conditions of service of the supporting staff;

(d) adopt terms of reference and financial and administrative rules of the Task Force; and

(e) consider and approve an initial budget to establish and operate the Task Force and agree upon the contributions of each Party to the budget.

7. At ordinary meetings the Governing Council shall approve a budget for the Task Force and agree upon the contributions of each Party to the budget.

8. The Governing Council shall determine the general policies of the Task Force and, for this purpose, shall:

(a) consider the reports submitted by the Director; and

(b) upon expiry, termination or renewal of their terms of service, consider and approve the appointment of the Director, other Field Officers and the Intelligence Officer.

9. The Governing Council shall:

(a) keep under review the implementation of this Agreement;

(b) consider and undertake any additional action that may be deemed necessary for the achievement of the objective of this Agreement in the light of experience gained in its operation; and

(c) consider and adopt, as required, in accordance with Article 11, amendments to this Agreement.

Article 8

Financial Provisions

1. There shall be a budget for the Task Force.

2. The financial management of the Task Force shall be governed by the financial rules adopted by the Governing Council.

3. The Governing Council shall determine the mode of payment and currencies of contributions by the Parties to the budget of the Task Force. Other resources of the Task Force may include extra budgetary resources such a grants, donations, funds for projects and programmes and technical assistance.

4. The Parties undertake to pay annually their agreed contributions to the budget of the Task Force by a specified date as determined by the Governing Council.

5. The Unit of Account in which the budget will be prepared shall be determined by the Governing Council.

Article 9

Seat

1. The Seat of the Task Force shall be determined by the Governing Council pursuant to an offer made by a Party.

2. The Government of the Party in whose territory the Seat of the Task Force shall be located and the Director acting on behalf of the Task Force shall conclude a headquarters agreement relating to the legal capacity of the Task Force and the privileges and immunities of the Task Force, Director, other Field Officers and the Intelligence Officer, which privileges and immunities shall not be less than those accorded to diplomatic missions and their personnel in the host country, and including those privileges and immunities stipulated in paragraph 11 of Article 5.

3. The Government aforementioned shall assist the Task Force in the acquisition of affordable accommodation for its use.

Article 10

Settlement of Disputes

1. Any dispute concerning the interpretation or application of this Agreement which cannot be settled by negotiation, conciliation or other peaceful means may be referred by any Party thereto to the Governing Council.

2. Where the Parties fail to settle the dispute the matter shall be submitted to an arbitral body.

3. The Parties to the dispute shall appoint one arbitrator each; the arbitrators so appointed shall designate, by mutual consent, an neutral arbitrator as Chairperson who shall not be a national of any of the Parties to the dispute.

4. If any of the Parties does not appoint an arbitrator within three months of the appointment of the first arbitrator, or if the Chairperson has not been designated within three months of the matter being referred to arbitration, the Chairperson of the Governing Council shall designate the arbitrator or the Chairperson or both, as the case may be, within a further period of three months.

5. The arbitral body shall have jurisdiction to hear and determine any matter arising from a dispute.

6. The arbitral body shall determine its own rules of procedure.

7. The Parties to the dispute shall be bound by the arbitral decision.

Article 11

Amendment

1. Amendments to the Agreement may be proposed by any Party and communicated in writing to the Director of the Task Force who shall transmit the proposals to all Parties. The Director shall also communicate proposed amendments to the signatories to this Agreement for information.

2. No proposal for amendment shall be considered by the Governing Council unless it is received by the Director al least one hundred and twenty days before the opening day of the meeting at which it is to be considered.

3. Amendments to the Agreement shall be adopted at a meeting of the Governing Council. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties present and voting at the meeting. Amendments shall take effect, with respect to the Parties, in the thirtieth day after their adoption by the Governing Council. Amendments adopted shall be notified to the Depositary forthwith.

Article 12

Signature, Ratification, Acceptance, Approval or Accession

1. This Agreement shall be open for signature on 9 September 1994 by all African States at the Ministerial Meeting to conclude this Agreement in Lusaka, and thereafter from 12 September to 12 December 1994 at the Headquarters of the United Nations Environment Programme in Nairobi, and from 13 December 1994 to 13 March 1995 at the United Nations Headquarters in New York.

2. This Agreement shall be subject to ratification, acceptance or approval.

3. This Agreement shall remain open for accession by any African State from the day after the date on which the Agreement is closed for signature.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 13

Entry into Force

1. This Agreement shall enter into force on the sixtieth day after the date of the deposit of the fourth instrument of ratification, acceptance, approval or accession.

2. For each Party which ratifies, accepts, approves or accedes to this Agreement after the deposit of the fourth instrument of ratification, acceptance, approval or accession, this Agreement shall enter into force on the sixtieth day after the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 14

Withdrawal

1. At any time after five years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon the expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal provided, however, that any obligation incurred by the Party prior to its withdrawal shall remain valid for that Party.

Article 15

Depositary

1. The Secretary-General of the United Nations shall assume the functions of Depositary of this Agreement.

2. The Depositary shall notify all Parties to this Agreement of:

(a) the deposit of instruments of ratification, acceptance, approval or accession in accordance with Article 12;

(b) the designation or establishment of National Bureaus in accordance with Article 6;

(c) the amendments adopted in accordance with Article 11; and

(d) withdrawal in accordance with Article 14.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective governments, have signed this Agreement.

DONE AT LUSAKA on this ninth day of September, one thousand nine hundred and ninety-four.

Energy Charter Treaty, with annexes, and Protocol on Energy Efficiency and Related Environmental Aspects, Lisbon, 1994

Done at Lisbon 17 December 1994

Entered into force 16 April 1998

Depositary: Portugal

Primary source citation: Secretariat of the Energy Charter Treaty

Final Act of the European Energy Charter Conference

I. The final Plenary Session of the European Energy Charter Conference was held at Lisbon on 16-17 December 1994. Representatives of the Republic of Albania, the Republic of Armenia, Australia, the Republic of Austria, the Azerbaijani Republic, the Kingdom of Belgium, the Republic of Belarus, the Republic of Bulgaria, Canada, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the European Communities, the Republic of Finland, the French Republic, the Republic of Georgia, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, the Republic of Iceland, Ireland, the Italian Republic, Japan, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Latvia, the Principality of Liechtenstein, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Moldova, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Russian Federation, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain, the Kingdom of Sweden, the Swiss Confederation, the Republic of Tajikistan, the Republic of Turkey, Turkmenistan, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Republic of Uzbekistan (hereinafter referred to as "the representatives") participated in the Conference, as did invited observers from certain countries and international organizations.

Background

II. During the meeting of the European Council in Dublin in June 1990, the Prime Minister of the Netherlands suggested that economic recovery in Eastern Europe and the then Union of Soviet Socialist Republics could be catalysed and accelerated by co-operation in the energy sector. This suggestion was welcomed by the Council, which invited the Commission of the European Communities to study how best to implement such co-operation. In February 1991 the Commission proposed the concept of a European Energy Charter.

Following discussion of the Commission's proposal in the Council of the European Communities, the European Communities invited the other countries of Western and Eastern Europe, of the Union of Soviet Socialist Republics and the non-European members of the Organisation for Economic Co-operation and Development to attend a conference in Brussels in July 1991 to launch negotiations on the European Energy Charter. A number of other countries and international organizations were invited to attend the European Energy Charter Conference as observers.

Negotiations on the European Energy Charter were completed in 1991 and the Charter was adopted by signature of a Concluding Document at a conference held at The Hague on 16-17 December 1991. Signatories of the Charter, then or subsequently, include all those listed in Section I above, other than observers.

The signatories of the European Energy Charter undertook:

— to pursue the objectives and principles of the Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith a Basic Agreement and Protocols.

The European Energy Charter Conference accordingly began negotiations on a Basic Agreement — later called the Energy Charter Treaty — designed to promote East-West industrial co-operation by providing legal safeguards in areas such as investment, transit and trade. It also began negotiations on Protocols in the fields of energy efficiency, nuclear safety and hydrocarbons, although in the last case negotiations were later suspended until completion of the Energy Charter Treaty.

Negotiations on the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects were successfully completed in 1994.

THE ENERGY CHARTER TREATY

III. As a result of its deliberations the European Energy Charter Conference has adopted the text of the Energy Charter Treaty (hereinafter referred to as the "Treaty") which is set out in Annex 1 and Decisions with respect thereto which are set out in Annex 2, and agreed that the Treaty would be open for signature at Lisbon from 17 December 1994 to 16 June 1995.

UNDERSTANDINGS

IV. By signing the Final Act, the representatives agreed to adopt the following Understandings with respect to the Treaty:

1. With respect to the Treaty as a whole

   (a) The representatives underline that the provisions of the Treaty have been agreed upon bearing in mind the specific nature of the Treaty aiming at a legal framework to promote long-term co-operation in a particular sector and as a result cannot be construed to constitute a precedent in the context of other international negotiations.

   (b) The provisions of the Treaty do not:

      (i) oblige any Contracting Party to introduce mandatory third party access; or

      (ii) prevent the use of pricing systems which, within a particular category of consumers, apply identical prices to customers in different locations.

   (c) Derogations from most favoured nation treatment are not intended to cover measures which are specific to an Investor or group of Investors, rather than applying generally.

2. With respect to Article 1(5)

   (a) It is understood that the Treaty confers no rights to engage in economic activities other than Economic Activities in the Energy Sector.

   (b) The following activities are illustrative of Economic Activity in the Energy Sector:

      (i) prospecting and exploration for, and extraction of, e.g., oil, gas, coal and uranium;

(ii) construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;

(iii) land transportation, distribution, storage and supply of Energy Materials and Products, e.g., by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;

(iv) removal and disposal of wastes from energy related facilities such as power stations, including radioactive wastes from nuclear power stations;

(v) decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;

(vi) marketing and sale of, and trade in Energy Materials and Products, e.g., retail sales of gasoline; and

(vii) research, consulting, planning, management and design activities related to the activities mentioned above, including those aimed at Improving Energy Efficiency.

3. With respect to Article 1(6)

For greater clarity as to whether an Investment made in the Area of one Contracting Party is controlled, directly or indirectly, by an Investor of any other Contracting Party, control of an Investment means control in fact, determined after an examination of the actual circumstances in each situation. In any such examination, all relevant factors should be considered, including the Investor's

(a) financial interest, including equity interest, in the Investment;

(b) ability to exercise substantial influence over the management and operation of the Investment; and

(c) ability to exercise substantial influence over the selection of members of the board of directors or any other managing body.

Where there is doubt as to whether an Investor controls, directly or indirectly, an Investment, an Investor claiming such control has the burden of proof that such control exists.

4. With respect to Article 1(8)

Consistent with Australia's foreign investment policy, the establishment of a new mining or raw materials processing project in Australia with total investment of $A 10 million or more by a foreign interest, even where that foreign interest is already operating a similar business in Australia, is considered as the making of a new investment.

5. With respect to Article 1(12)

The representatives recognize the necessity for adequate and effective protection of Intellectual Property rights according to the highest internationally-accepted standards.

6. With respect to Article 5(1)

The representatives' agreement to Article 5 is not meant to imply any position on whether or to what extent the provisions of the "Agreement on Trade-Related Investment Measures" annexed to the Final Act of the Uruguay Round of Multilateral Trade Negotiations are implicit in articles III and XI of the GATT.

7. With respect to Article 6

(a) The unilateral and concerted anti-competitive conduct referred to in Article 6(2) are to be defined by each Contracting Party in accordance with its laws and may include exploitative abuses.

b) "Enforcement" and "enforces" include action under the competition laws of a Contracting Party by way of investigation, legal proceeding, or administrative action as well as by way of any decision or further law granting or continuing an authorization.

8. With respect to Article 7(4)

The applicable legislation would include provisions on environmental protection, land use, safety, or technical standards.

9. With respect to Articles 9, 10 and Part V

As a Contracting Party's programmes which provide for public loans, grants, guarantees or insurance for facilitating trade or Investment abroad are not connected with Investment or related activities of Investors from other Contracting Parties in its Area, such programmes may be subject to constraints with respect to participation in them.

10. With respect to Article 10(4)

The supplementary treaty will specify conditions for applying the Treatment described in Article 10(3). Those conditions will include, inter alia, provisions relating to the sale or other divestment of state assets (privatization) and to the dismantling of monopolies (demonopolization).

11. With respect to Articles 10(4) and 29(6)

Contracting Parties may consider any connection between the provisions of Article 10(4) and Article 29(6).

12. With respect to Article 14(5)

It is intended that a Contracting Party which enters into an agreement referred to in Article 14(5) ensure that the conditions of such an agreement are not in contradiction with that Contracting Party's obligations under the Articles of Agreement of the International Monetary Fund.

13. With respect to Article 19(1)(i)

It is for each Contracting Party to decide the extent to which the assessment and monitoring of Environmental Impacts should be subject to legal requirements, the authorities competent to take decisions in relation to such requirements, and the appropriate procedures to be followed.

14. With respect to Articles 22 and 23

With regard to trade in Energy Materials and Products governed by Article 29, that Article specifies the provisions relevant to the subjects covered by Articles 22 and 23.

15. With respect to Article 24

Exceptions contained in the GATT and Related Instruments apply between particular Contracting Parties which are parties to the GATT, as recognized by Article 4. With respect to trade in Energy Materials and Products governed by Article 29, that Article specifies the provisions relevant to the subjects covered by Article 24.

16. With respect to Article 26(2)(a)

Article 26(2)(a) should not be interpreted to require a Contracting Party to enact Part III of the

Treaty into its domestic law.

17. With respect to Articles 26 and 27

The reference to treaty obligations in the penultimate sentence of Article 10(1) does not include decisions taken by international organizations, even if they are legally binding, or treaties which entered into force before 1 January 1970.

18. With respect to Article 29(2)(a)

(a) Where a provision of GATT 1947 or a Related Instrument referred to in this paragraph provides for joint action by parties to the GATT, it is intended that the Charter Conference take such action.

(b) The notion "applied on 1 March 1994 and practised with regard to Energy Materials and Products by parties to GATT 1947 among themselves" is not intended to refer to cases where a party to the GATT has invoked article XXXV of the GATT, thereby disapplying the GATT vis-à-vis another party to the GATT, but nevertheless applies unilaterally on a de facto basis some provisions of the GATT vis-à-vis that other party to the GATT.

19. With respect to Article 33

The provisional Charter Conference should at the earliest possible date decide how best to give effect to the goal of Title III of the European Energy Charter that Protocols be negotiated in areas of co-operation such as those listed in Title III of the Charter.

20. With respect to Article 34

(a) The provisional Secretary-General should make immediate contact with other international bodies in order to discover the terms on which they might be willing to undertake tasks arising from the Treaty and the Charter. The provisional Secretary-General might report back to the provisional Charter Conference at the meeting which Article 45(4) requires to be convened not later than 180 days after the opening date for signature of the Treaty.

(b) The Charter Conference should adopt the annual budget before the beginning of the financial year.

21. With respect to Article 34(3)(m)

The technical changes to Annexes might for instance include, the listing of non-signatories or of signatories that have evinced their intention not to ratify, or additions to Annexes N and VC. It is intended that the Secretariat would propose such changes to the Charter Conference when appropriate.

22. With respect to Annex TFU(1)

(a) If some of the parties to an agreement referred to in paragraph (1) have not signed or acceded to the Treaty at the time required for notification, those parties to the agreement which have signed or acceded to the Treaty may notify on their behalf.

(b) The need in general for notification of agreements of a purely commercial nature is not foreseen because such agreements should not raise a question of compliance with Article 29(2)(a), even when they are entered into by state agencies. The Charter Conference could, however, clarify for purposes of Annex TFU which types of agreements referred to in Article 29(2)(b) require notification under the Annex and which types do not.

DECLARATIONS

V. The representatives declared that Article 18(2) shall not be construed to allow the circumvention of the application of the other provisions of the Treaty.

VI. The representatives also noted the following Declarations that were made with respect to the Treaty:

1. With respect to Article 1(6)

The Russian Federation wishes to have reconsidered, in negotiations with regard to the supplementary treaty referred to in Article 10(4), the question of the importance of national legislation with respect to the issue of control as expressed in the Understanding to Article 1(6).

2. With respect to Articles 5 and 10(11)

Australia notes that the provisions of Articles 5 and 10(11) do not diminish its rights and obligations under the GATT, including as elaborated in the Uruguay Round Agreement on Trade-Related Investment Measures, particularly with respect to the list of exceptions in Article 5(3), which it considers incomplete.

Australia further notes that it would not be appropriate for dispute settlement bodies established under the Treaty to give interpretations of GATT articles III and XI in the context of disputes between parties to the GATT or between an Investor of a party to the GATT and another party to the GATT. It considers that with respect to the application of Article 10(11) between an Investor and a party to the GATT, the only issue that can be considered under Article 26 is the issue of the awards of arbitration in the event that a GATT panel or the WTO dispute settlement body first establishes that a trade-related investment measure maintained by the Contracting Party is inconsistent with its obligations under the GATT or the Agreement on Trade-Related Investment Measures.

3. With respect to Article 7

The European Communities and their Member States and Austria, Norway, Sweden and Finland declare that the provisions of Article 7 are subject to the conventional rules of international law on jurisdiction over submarine cables and pipelines or, where there are no such rules, to general international law.

They further declare that Article 7 is not intended to affect the interpretation of existing international law on jurisdiction over submarine cables and pipelines, and cannot be considered as doing so.

4. With respect to Article 10

Canada and the United States each affirm that they will apply the provisions of Article 10 in accordance with the following considerations:

For the purposes of assessing the treatment which must be accorded to Investors of other Contracting Parties and their Investments, the circumstances will need to be considered on a case-by-case basis. A comparison between the treatment accorded to Investors of one Contracting Party, or the Investments of Investors of one Contracting Party, and the Investments or Investors of another Contracting Party, is only valid if it is made between Investors and Investments in similar circumstances. In determining whether differential treatment of Investors or Investments is consistent with Article 10, two basic factors must be taken into account.

The first factor is the policy objectives of Contracting Parties in various fields insofar as they are consistent with the principles of non-discrimination set out in Article 10. Legitimate policy objectives may justify differential treatment of foreign Investors or their Investments in order to reflect a dissimilarity of relevant circumstances between those Investors and Investments and their domestic counterparts. For example, the objective of ensuring the integrity of a country's financial system would justify reasonable prudential measures with respect to foreign Investors or Investments, where such measures would be unnecessary to ensure the attainment of the same objectives insofar as domestic Investors or Investments are concerned. Those foreign Investors or their Investments

would thus not be "in similar circumstances" to domestic Investors or their Investments. Thus, even if such a measure accorded differential treatment, it would not be contrary to Article 10.

The second factor is the extent to which the measure is motivated by the fact that the relevant Investor or Investment is subject to foreign ownership or under foreign control. A measure aimed specifically at Investors because they are foreign, without sufficient countervailing policy reasons consistent with the preceding paragraph, would be contrary to the principles of Article 10. The foreign Investor or Investment would be "in similar circumstances" to domestic Investors and their Investments, and the measure would be contrary to Article 10.

5. With respect to Article 25

The European Communities and their Member States recall that, in accordance with article 58 of the Treaty establishing the European Community:

a) companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the right of establishment pursuant to Part Three, Title III, Chapter 2 of the Treaty establishing the European Community, be treated in the same way as natural persons who are nationals of Member States; companies or firms which only have their registered office within the Community must, for this purpose, have an effective and continuous link with the economy of one of the Member States;

(b) "companies and firms" means companies or firms constituted under civil or commercial law, including co-operative societies, and other legal persons governed by public or private law, save for those which are non-profitmaking.

The European Communities and their Member States further recall that:

Community law provides for the possibility to extend the treatment described above to branches and agencies of companies or firms not established in one of the Member States; and that, the application of Article 25 of the Energy Charter Treaty will allow only those derogations necessary to safeguard the preferential treatment resulting from the wider process of economic integration resulting from the Treaties establishing the European Communities.

6. With respect to Article 40

Denmark recalls that the European Energy Charter does not apply to Greenland and the Faroe Islands until notice to this effect has been received from the local governments of Greenland and the Faroe Islands.

In this respect Denmark affirms that Article 40 of the Treaty applies to Greenland and the Faroe Islands.

7. With respect to Annex G(4)

(a) The European Communities and the Russian Federation declare that trade in nuclear materials between them shall be governed, until they reach another agreement, by the provisions of article 22 of the Agreement on Partnership and Co-operation establishing a partnership between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part, signed at Corfu on 24 June 1994, the exchange of letters attached thereto and the related joint declaration, and disputes regarding such trade will be subject to the procedures of the said Agreement.

(b) The European Communities and Ukraine declare that, in accordance with the Agreement on Partnership and Co-operation signed at Luxembourg on 14 June 1994 and the Interim Agreement thereto, initialled there the same day, trade in nuclear materials between them shall be exclusively governed by the provisions of a specific agreement to be concluded between the European Atomic Energy Community and Ukraine.

Until entry into force of this specific agreement, the provisions of the Agreement on Trade and Economic and Commercial Co-operation between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics signed at Brussels on 18 December 1989 shall exclusively continue to apply for trade in nuclear materials between them.

(c) The European Communities and Kazakhstan declare that, in accordance with the Agreement on Partnership and Co-operation initialled at Brussels on 20 May 1994, trade in nuclear materials between them shall be exclusively governed by the provisions of a specific agreement to be concluded between the European Atomic Energy Community and Kazakhstan.

Until entry into force of this specific agreement, the provisions of the Agreement on Trade and Economic and Commercial Co-operation between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics signed at Brussels on 18 December 1989 shall exclusively continue to apply for trade in nuclear materials between them.

(d) The European Communities and Kyrgyzstan declare that, in accordance with the Agreement on Partnership and Co-operation initialled at Brussels on 31 May 1994, trade in nuclear materials between them shall be exclusively governed by the provisions of a specific agreement to be concluded between the European Atomic Energy Community and Kyrgyzstan.

Until entry into force of this specific agreement, the provisions of the Agreement on Trade and Economic and Commercial Co-operation between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics signed at Brussels on 18 December 1989 shall exclusively continue to apply for trade in nuclear materials between them.

(e) The European Communities and Tajikistan declare that trade in nuclear materials between them shall be exclusively governed by the provisions of a specific agreement to be concluded between the European Atomic Energy Community and Tajikistan.

Until entry into force of this specific agreement, the provisions of the Agreement on Trade and Economic and Commercial Co-operation between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics signed at Brussels on 18 December 1989 shall exclusively continue to apply for trade in nuclear materials between them.

(f) The European Communities and Uzbekistan declare that trade in nuclear materials between them shall be exclusively governed by the provisions of a specific agreement to be concluded between the European Atomic Energy Community and Uzbekistan.

Until entry into force of this specific agreement, the provisions of the Agreement on Trade and Economic and Commercial Co-operation between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics signed at Brussels on 18 December 1989 shall exclusively continue to apply for trade in nuclear materials between them.

THE ENERGY CHARTER PROTOCOL ON ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS

VII. The European Energy Charter Conference has adopted the text of the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects which is set out in Annex 3.

THE EUROPEAN ENERGY CHARTER

VIII. The provisional Charter Conference and the Charter Conference provided for in the Treaty shall henceforth be responsible for making decisions on requests to sign the Concluding Document of the Hague Conference on the European Energy Charter and the European Energy Charter adopted thereby.

DOCUMENTATION

IX. The records of negotiations of the European Energy Charter Conference will be deposited with the Secretariat.

Done at Lisbon on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

THE ENERGY CHARTER TREATY
(Annex 1 to the Final Act of the European Energy Charter Conference)

PREAMBLE

The Contracting Parties to this Treaty,

Having regard to the Charter of Paris for a New Europe signed on 21 November 1990;

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991;

Recalling that all signatories to the Concluding Document of the Hague Conference undertook to pursue the objectives and principles of the European Energy Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith an Energy Charter Treaty and Protocols, and desiring to place the commitments contained in that Charter on a secure and binding international legal basis;

Desiring also to establish the structural framework required to implement the principles enunciated in the European Energy Charter;

Wishing to implement the basic concept of the European Energy Charter initiative which is to catalyse economic growth by means of measures to liberalize investment and trade in energy;

Affirming that Contracting Parties attach the utmost importance to the effective implementation of full national treatment and most favoured nation treatment, and that these commitments will be applied to the Making of Investments pursuant to a supplementary treaty;

Having regard to the objective of progressive liberalization of international trade and to the principle of avoidance of discrimination in international trade as enunciated in the General Agreement on Tariffs and Trade and its Related Instruments and as otherwise provided for in this Treaty;

Determined progressively to remove technical, administrative and other barriers to trade in Energy Materials and Products and related equipment, technologies and services;

Looking to the eventual membership in the General Agreement on Tariffs and Trade of those Contracting Parties which are not currently parties thereto and concerned to provide interim trade arrangements which will assist those Contracting Parties and not impede their preparation for such membership;

Mindful of the rights and obligations of certain Contracting Parties which are also parties to the General Agreement on Tariffs and Trade and its Related Instruments;

Having regard to competition rules concerning mergers, monopolies, anti-competitive practices and abuse of dominant position;

Having regard also to the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines and other international nuclear non-proliferation obligations or understandings;

Recognizing the necessity for the most efficient exploration, production, conversion, storage, transport, distribution and use of energy;

Recalling the United Nations Framework Convention on Climate Change, the Convention on Long-Range Transboundary Air Pollution and its protocols, and other international environmental agreements with energy-related aspects; and

Recognizing the increasingly urgent need for measures to protect the environment, including the decommissioning of energy installations and waste disposal, and for internationally-agreed objectives and criteria for these purposes,

HAVE AGREED AS FOLLOWS:

PART I DEFINITIONS AND PURPOSE

ARTICLE 1 DEFINITIONS

As used in this Treaty:

(1) "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Document is considered to be signature of the Charter.

(2) "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Treaty and for which the Treaty is in force.

(3) "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Treaty, including the authority to take decisions binding on them in respect of those matters.

(4) "Energy Materials and Products", based on the Harmonized System of the Customs Co-operation Council and the Combined Nomenclature of the European Communities, means the items included in Annex EM.

(5) "Economic Activity in the Energy Sector" means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sale of Energy Materials and Products except those included in Annex NI, or concerning the distribution of heat to multiple premises.

(6) "Investment" means every kind of asset, owned or controlled directly or indirectly by an Investor and includes:

(a) tangible and intangible, and movable and immovable, property, and any property rights such as leases, mortgages, liens, and pledges;

(b) a company or business enterprise, or shares, stock, or other forms of equity participation in a company or business enterprise, and bonds and other debt of a company or business enterprise;

(c) claims to money and claims to performance pursuant to contract having an economic value and associated with an Investment;

(d) Intellectual Property;

(e) Returns;

(f) any right conferred by law or contract or by virtue of any licences and permits granted pursuant to law to undertake any Economic Activity in the Energy Sector.

A change in the form in which assets are invested does not affect their character as investments and the term "Investment" includes all investments, whether existing at or made after the later of the date of entry into force of this Treaty for the Contracting Party of the Investor making the investment and that for the Contracting Party in the Area of which the investment is made (hereinafter referred to as the "Effective Date") provided that the Treaty shall only apply to matters affecting such investments after the Effective Date.

"Investment" refers to any investment associated with an Economic Activity in the Energy Sector and to investments or classes of investments designated by a Contracting Party in its Area as "Charter efficiency projects" and so notified to the Secretariat.

(7) "Investor" means:

(a) with respect to a Contracting Party:

(i) a natural person having the citizenship or nationality of or who is permanently residing in that Contracting Party in accordance with its applicable law;

(ii) a company or other organization organized in accordance with the law applicable in that Contracting Party;

(b) with respect to a "third state", a natural person, company or other organization which fulfils, mutatis mutandis, the conditions specified in subparagraph (a) for a Contracting Party.

(8) "Make Investments" or "Making of Investments" means establishing new Investments, acquiring all or part of existing Investments or moving into different fields of Investment activity.

(9) "Returns" means the amounts derived from or associated with an Investment, irrespective of the form in which they are paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees and payments in kind.

(10) "Area" means with respect to a state that is a Contracting Party:

(a) the territory under its sovereignty, it being understood that territory includes land, internal waters and the territorial sea; and

(b) subject to and in accordance with the international law of the sea: the sea, sea-bed and its subsoil with regard to which that Contracting Party exercises sovereign rights and jurisdiction.

With respect to a Regional Economic Integration Organization which is a Contracting Party, Area means the Areas of the member states of such Organization, under the provisions contained in the agreement establishing that Organization.

(11) (a) "GATT" means "GATT 1947" or "GATT 1994", or both of them where both are applicable.

(b) "GATT 1947" means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

(c) "GATT 1994" means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.

A party to the Agreement Establishing the World Trade Organization is considered to be a party to GATT 1994.

(d) "Related Instruments" means, as appropriate:

(i) agreements, arrangements or other legal instruments, including decisions, declarations and understandings, concluded under the auspices of GATT 1947 as subsequently rectified, amended or modified; or

(ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended or modified.

(12) "Intellectual Property" includes copyrights and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

(13) (a) "Energy Charter Protocol" or "Protocol" means a treaty, the negotiation of which is authorized and the text of which is adopted by the Charter Conference, which is entered into by two or more Contracting Parties in order to complement, supplement, extend or amplify the provisions of this Treaty with respect to any specific sector or category of activity within the scope of this Treaty, or to areas of co-operation pursuant to Title III of the Charter.

(b) "Energy Charter Declaration" or "Declaration" means a non-binding instrument, the negotiation of which is authorized and the text of which is approved by the Charter Conference, which is entered into by two or more Contracting Parties to complement or supplement the provisions of this Treaty.

(14) "Freely Convertible Currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions.

ARTICLE 2 PURPOSE OF THE TREATY

This Treaty establishes a legal framework in order to promote long-term co-operation in the energy field, based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter.

PART II COMMERCE

ARTICLE 3 INTERNATIONAL MARKETS

The Contracting Parties shall work to promote access to international markets on commercial terms, and generally to develop an open and competitive market, for Energy Materials and Products.

ARTICLE 4 NON-DEROGATION FROM GATT AND RELATED INSTRUMENTS

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied between those Contracting Parties.

ARTICLE 5 TRADE-RELATED INVESTMENT MEASURES

(1) A Contracting Party shall not apply any trade-related investment measure that is inconsistent with the provisions of article III or XI of the GATT; this shall be without prejudice to the Contracting Party's rights and obligations under the GATT and Related Instruments and Article 29.

(2) Such measures include any investment measure which is mandatory or enforceable under domestic law or under any administrative ruling, or compliance with which is necessary to obtain an advantage, and which requires:

(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or

(b) that an enterprise's purchase or use of imported products be limited to an amount related to the volume or value of local products that it exports;

or which restricts:

(c) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;

(d) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or

(e) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

(3) Nothing in paragraph (1) shall be construed to prevent a Contracting Party from applying the trade-related investment measures described in subparagraphs (2)(a) and (c) as a condition of eligibility for export promotion, foreign aid, government procurement or preferential tariff or quota programmes.

(4) Notwithstanding paragraph (1), a Contracting Party may temporarily continue to maintain trade-related investment measures which were in effect more than 180 days before its signature of this Treaty, subject to the notification and phase-out provisions set out in Annex TRM.

ARTICLE 6 COMPETITION

(1) Each Contracting Party shall work to alleviate market distortions and barriers to competition in Economic Activity in the Energy Sector.

(2) Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector.

(3) Contracting Parties with experience in applying competition rules shall give full consideration to providing, upon request and within available resources, technical assistance on the development and implementation of competition rules to other Contracting Parties.

(4) Contracting Parties may co-operate in the enforcement of their competition rules by consulting and exchanging information.

(5) If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti-competitive conduct that is the subject of the notification and shall include an offer of such further information and co-operation as the notifying Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcement action with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development.

(6) Nothing in this Article shall require the provision of information by a Contracting Party contrary to its laws regarding disclosure of information, confidentiality or business secrecy.

(7) The procedures set forth in paragraph (5) and Article 27(1) shall be the exclusive means within this Treaty of resolving any disputes that may arise over the implementation or interpretation of this Article.

ARTICLE 7 TRANSIT

(1) Each Contracting Party shall take the necessary measures to facilitate the Transit of Energy Materials and Products consistent with the principle of freedom of transit and without distinction as to the origin, destination or ownership of such Energy Materials and Products or discrimination as to pricing on the basis of such distinctions, and without imposing any unreasonable delays, restrictions or charges.

(2) Contracting Parties shall encourage relevant entities to co-operate in:

(a) modernising Energy Transport Facilities necessary to the Transit of Energy Materials and Products;

(b) the development and operation of Energy Transport Facilities serving the Areas of more than one Contracting Party;

(c) measures to mitigate the effects of interruptions in the supply of Energy Materials and Products;

(d) facilitating the interconnection of Energy Transport Facilities.

(3) Each Contracting Party undertakes that its provisions relating to transport of Energy Materials and Products and the use of Energy Transport Facilities shall treat Energy Materials and Products in Transit in no less favourable a manner than its provisions treat such materials and products originating in or destined for its own Area, unless an existing international agreement provides otherwise.

(4) In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1).

(5) A Contracting Party through whose Area Energy Materials and Products may transit shall not be obliged to

(a) permit the construction or modification of Energy Transport Facilities; or

(b) permit new or additional Transit through existing Energy Transport Facilities,

which it demonstrates to the other Contracting Parties concerned would endanger the security or efficiency of its energy systems, including the security of supply.

Contracting Parties shall, subject to paragraphs (6) and (7), secure established flows of Energy Materials and Products to, from or between the Areas of other Contracting Parties.

(6) A Contracting Party through whose Area Energy Materials and Products transit shall not, in the event of a dispute over any matter arising from that Transit, interrupt or reduce, permit any entity subject to its control to interrupt or reduce, or require any entity subject to its jurisdiction to interrupt or reduce the existing flow of Energy Materials and Products prior to the conclusion of the dispute resolution procedures set out in paragraph (7), except where this is specifically provided for in a contract or other agreement governing such Transit or permitted in accordance with the conciliator's decision.

(7) The following provisions shall apply to a dispute described in paragraph (6), but only following the exhaustion of all relevant contractual or other dispute resolution remedies previously agreed between the Contracting Parties party to the dispute or between any entity referred to in paragraph (6) and an entity of another Contracting Party party to the dispute:

(a) A Contracting Party party to the dispute may refer it to the Secretary-General by a notification summarizing the matters in dispute. The Secretary-General shall notify all Contracting Parties of any such referral.

(b) Within 30 days of receipt of such a notification, the Secretary-General, in consultation with the parties to the dispute and the other Contracting Parties concerned, shall appoint a conciliator. Such a conciliator shall have experience in the matters subject to dispute and shall not be a national or citizen of or permanently resident in a party to the dispute or one of the other Contracting Parties concerned.

(c) The conciliator shall seek the agreement of the parties to the dispute to a resolution thereof or upon a procedure to achieve such resolution. If within 90 days of his appointment he has failed to secure such agreement, he shall recommend a resolution to the dispute or a procedure to achieve such resolution and shall decide the interim tariffs and other terms and conditions to be observed for Transit from a date which he shall specify until the dispute is resolved.

(d) The Contracting Parties undertake to observe and ensure that the entities under their control or jurisdiction observe any interim decision under subparagraph (c) on tariffs, terms and conditions for 12 months following the conciliator's decision or until resolution of the dispute, whichever is earlier.

(e) Notwithstanding subparagraph (b) the Secretary-General may elect not to appoint a conciliator if in his judgement the dispute concerns Transit that is or has been the subject of the dispute resolution procedures set out in subparagraphs (a) to (d) and those proceedings have not resulted in a resolution of the dispute.

(f) The Charter Conference shall adopt standard provisions concerning the conduct of conciliation and the compensation of conciliators.

(8) Nothing in this Article shall derogate from a Contracting Party's rights and obligations under international law including customary international law, existing bilateral or multilateral agreements, including rules concerning submarine cables and pipelines.

(9) This Article shall not be so interpreted as to oblige any Contracting Party which does not have a certain type of Energy Transport Facilities used for Transit to take any measure under this Article with respect to that type of Energy Transport Facilities. Such a Contracting Party is, however, obliged to comply with paragraph (4).

(10) For the purposes of this Article:

(a) "Transit" means

(i) the carriage through the Area of a Contracting Party, or to or from port facilities in its Area for loading or unloading, of Energy Materials and Products originating in the Area of another state and destined for the Area of a third state, so long as either the other state or the third state is a Contracting Party; or

(ii) the carriage through the Area of a Contracting Party of Energy Materials and Products originating in the Area of another Contracting Party and destined for the Area of that other Contracting Party, unless the two Contracting Parties concerned decide otherwise and record their decision by a joint entry in Annex N. The two Contracting Parties may delete their listing in Annex N by delivering a joint written notification of their intentions to the Secretariat,

which shall transmit that notification to all other Contracting Parties. The deletion shall take effect four weeks after such former notification.

(b) "Energy Transport Facilities" consist of high-pressure gas transmission pipelines, high-voltage electricity transmission grids and lines, crude oil transmission pipelines, coal slurry pipelines, oil product pipelines, and other fixed facilities specifically for handling Energy Materials and Products.

ARTICLE 8 TRANSFER OF TECHNOLOGY

(1) The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.

(2) Accordingly, to the extent necessary to give effect to paragraph (1) the Contracting Parties shall eliminate existing and create no new obstacles to the transfer of technology in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

ARTICLE 9 ACCESS TO CAPITAL

(1) The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable.

(2) A Contracting Party may adopt and maintain programmes providing for access to public loans, grants, guarantees or insurance for facilitating trade or Investment abroad. It shall make such facilities available, consistent with the objectives, constraints and criteria of such programmes (including any objectives, constraints or criteria relating to the place of business of an applicant for any such facility or the place of delivery of goods or services supplied with the support of any such facility) for Investments in the Economic Activity in the Energy Sector of other Contracting Parties or for financing trade in Energy Materials and Products with other Contracting Parties.

(3) Contracting Parties shall, in implementing programmes in Economic Activity in the Energy Sector to improve the economic stability and investment climates of the Contracting Parties, seek as appropriate to encourage the operations and take advantage of the expertise of relevant international financial institutions.

(4) Nothing in this Article shall prevent:

(a) financial institutions from applying their own lending or underwriting practices based on market principles and prudential considerations; or

(b) a Contracting Party from taking measures:

(i) for prudential reasons, including the protection of Investors, consumers, depositors, policyholders or persons to whom a fiduciary duty is owed by a financial service supplier; or

(ii) to ensure the integrity and stability of its financial system and capital markets.

PART III INVESTMENT PROMOTION AND PROTECTION

ARTICLE 10 PROMOTION, PROTECTION AND TREATMENT OF INVESTMENTS

(1) Each Contracting Party shall, in accordance with the provisions of this Treaty, encourage and create stable, equitable, favourable and transparent conditions for Investors of other Contracting Parties to make Investments in its Area. Such conditions shall include a commitment to accord at all times to Investments of Investors of other Contracting Parties fair and equitable treatment. Such Investments shall also enjoy the most constant protection and security and no Contracting Party shall in any way impair by unreasonable or discriminatory measures their management, maintenance, use, enjoyment or disposal. In no case shall such Investments be accorded treatment less favourable than that required by international law, including treaty obligations. Each Contracting Party shall observe any obligations it has entered into with an Investor or an Investment of an Investor of any other Contracting Party.

(2) Each Contracting Party shall endeavour to accord to Investors of other Contracting Parties, as regards the Making of Investments in its Area, the Treatment described in paragraph (3).

(3) For the purposes of this Article, "Treatment" means treatment accorded by a Contracting Party which is no less favourable than that which it accords to its own Investors or to Investors of any other Contracting Party or any third state, whichever is the most favourable.

(4) A supplementary treaty shall, subject to conditions to be laid down therein, oblige each party thereto to accord to Investors of other parties, as regards the Making of Investments in its Area, the Treatment described in paragraph (3). That treaty shall be open for signature by the states and Regional Economic Integration Organizations which have signed or acceded to this Treaty. Negotiations towards the supplementary treaty shall commence not later than 1 January 1995, with a view to concluding it by 1 January 1998.

(5) Each Contracting Party shall, as regards the Making of Investments in its Area, endeavour to:

(a) limit to the minimum the exceptions to the Treatment described in paragraph (3);

(b) progressively remove existing restrictions affecting Investors of other Contracting Parties.

(6) (a) A Contracting Party may, as regards the Making of Investments in its Area, at any time declare voluntarily to the Charter Conference, through the Secretariat, its intention not to introduce new exceptions to the Treatment described in paragraph (3).

(b) A Contracting Party may, furthermore, at any time make a voluntary commitment to accord to Investors of other Contracting Parties, as regards the Making of Investments in some or all Economic Activities in the Energy Sector in its Area, the Treatment described in paragraph (3). Such commitments shall be notified to the Secretariat and listed in Annex VC and shall be binding under this Treaty.

(7) Each Contracting Party shall accord to Investments in its Area of Investors of other Contracting Parties, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable.

(8) The modalities of application of paragraph (7) in relation to programmes under which a Contracting Party provides grants or other financial assistance, or enters into contracts, for energy technology research and development, shall be reserved for the supplementary treaty described in paragraph (4). Each Contracting Party shall through the Secretariat keep the Charter Conference informed of the modalities it applies to the programmes described in this paragraph.

(9) Each state or Regional Economic Integration Organization which signs or accedes to this Treaty shall, on the date it signs the Treaty or deposits its instrument of accession, submit to the Secretariat a report summarizing all laws, regulations or other measures relevant to:

(a) exceptions to paragraph (2); or

(b) the programmes referred to in paragraph (8).

A Contracting Party shall keep its report up to date by promptly submitting amendments to the Secretariat. The Charter Conference shall review these reports periodically.

In respect of subparagraph (a) the report may designate parts of the energy sector in which a Contracting Party accords to Investors of other Contracting Parties the Treatment described in paragraph (3).

In respect of subparagraph (b) the review by the Charter Conference may consider the effects of such programmes on competition and Investments.

(10) Notwithstanding any other provision of this Article, the treatment described in paragraphs (3) and (7) shall not apply to the protection of Intellectual Property; instead, the treatment shall be as specified in the corresponding provisions of the applicable international agreements for the protection of Intellectual Property rights to which the respective Contracting Parties are parties.

(11) For the purposes of Article 26, the application by a Contracting Party of a trade-related investment measure as described in Article 5(1) and (2) to an Investment of an Investor of another Contracting Party existing at the time of such application shall, subject to Article 5(3) and (4), be considered a breach of an obligation of the former Contracting Party under this Part.

(12) Each Contracting Party shall ensure that its domestic law provides effective means for the assertion of claims and the enforcement of rights with respect to Investments, investment agreements, and investment authorizations.

ARTICLE 11 KEY PERSONNEL

(1) A Contracting Party shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine in good faith requests by Investors of another Contracting Party, and key personnel who are employed by such Investors or by Investments of such Investors, to enter and remain temporarily in its Area to engage in activities connected with the making or the development, management, maintenance, use, enjoyment or disposal of relevant Investments, including the provision of advice or key technical services.

(2) A Contracting Party shall permit Investors of another Contracting Party which have Investments in its Area, and Investments of such Investors, to employ any key person of the Investor's or the Investment's choice regardless of nationality and citizenship provided that such key person has been permitted to enter, stay and work in the Area of the former Contracting Party and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key person.

ARTICLE 12 COMPENSATION FOR LOSSES

(1) Except where Article 13 applies, an Investor of any Contracting Party, which suffers a loss with respect to any Investment in the Area of another Contracting Party owing to war or other armed conflict, state of national emergency, civil disturbance, or other similar event in that Area, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other settlement, treatment which is the most favourable of that which that Contracting Party accords to any other Investor, whether its own Investor, the Investor of any other Contracting Party, or the Investor of any third state.

(2) Without prejudice to paragraph (1), an Investor of a Contracting Party which, in any of the situations referred to in that paragraph, suffers a loss in the Area of another Contracting Party resulting from:

(a) requisitioning of its Investment or part thereof by the latter's forces or authorities; or

(b) destruction of its Investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective.

ARTICLE 13 EXPROPRIATION

(1) Investments of Investors of a Contracting Party in the Area of any other Contracting Party shall not be nationalized, expropriated or subjected to a measure or measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "Expropriation") except where such Expropriation is:

(a) for a purpose which is in the public interest;

(b) not discriminatory;

(c) carried out under due process of law; and

(d) accompanied by the payment of prompt, adequate and effective compensation.

Such compensation shall amount to the fair market value of the Investment expropriated at the time immediately before the Expropriation or impending Expropriation became known in such a way as to affect the value of the Investment (hereinafter referred to as the "Valuation Date").

Such fair market value shall at the request of the Investor be expressed in a Freely Convertible Currency on the basis of the market rate of exchange existing for that currency on the Valuation Date. Compensation shall also include interest at a commercial rate established on a market basis from the date of Expropriation until the date of payment.

(2) The Investor affected shall have a right to prompt review, under the law of the Contracting Party making the Expropriation, by a judicial or other competent and independent authority of that Contracting Party of its case, of the valuation of its Investment, and of the payment of compensation, in accordance with the principles set out in paragraph (1).

(3) For the avoidance of doubt, Expropriation shall include situations where a Contracting Party expropriates the assets of a company or enterprise in its Area in which an Investor of any other Contracting Party has an Investment, including through the ownership of shares.

ARTICLE 14 TRANSFERS RELATED TO INVESTMENTS

(1) Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

(a) the initial capital plus any additional capital for the maintenance and development of an Investment;

(b) Returns;

(c) payments under a contract, including amortization of principal and accrued interest payments pursuant to a loan agreement;

(d) unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;

(e) proceeds from the sale or liquidation of all or any part of an Investment;

(f) payments arising out of the settlement of a dispute;

(g) payments of compensation pursuant to Articles 12 and 13.

(2) Transfers under paragraph (1) shall be effected without delay and (except in case of a Return in kind) in a Freely Convertible Currency.

(3) Transfers shall be made at the market rate of exchange existing on the date of transfer with respect to spot transactions in the currency to be transferred. In the absence of a market for foreign exchange, the rate to be used will be the most recent rate applied to inward investments or the most recent exchange rate for conversion of currencies into Special Drawing Rights, whichever is more favourable to the Investor.

(4) Notwithstanding paragraphs (1) to (3), a Contracting Party may protect the rights of creditors, or ensure compliance with laws on the issuing, trading and dealing in securities and the satisfaction of judgements in civil, administrative and criminal adjudicatory proceedings, through the equitable, non-discriminatory, and good faith application of its laws and regulations.

(5) Notwithstanding paragraph (2), Contracting Parties which are states that were constituent parts of the former Union of Soviet Socialist Republics may provide in agreements concluded between them that transfers of payments shall be made in the currencies of such Contracting Parties, provided that such agreements do not treat Investments in their Areas of Investors of other Contracting Parties less favourably than either Investments of Investors of the Contracting Parties which have entered into such agreements or Investments of Investors of any third state.

(6) Notwithstanding subparagraph (1)(b), a Contracting Party may restrict the transfer of a Return in kind in circumstances where the Contracting Party is permitted under Article 29(2)(a) or the GATT and Related Instruments to restrict or prohibit the exportation or the sale for export of the product constituting the Return in kind; provided that a Contracting Party shall permit transfers of Returns in kind to be effected as authorized or specified in an investment agreement, investment authorization, or other written agreement between the Contracting Party and either an Investor of another Contracting Party or its Investment.

ARTICLE 15 SUBROGATION

(1) If a Contracting Party or its designated agency (hereinafter referred to as the "Indemnifying Party") makes a payment under an indemnity or guarantee given in respect of an Investment of an Investor (hereinafter referred to as the "Party Indemnified") in the Area of another Contracting Party (hereinafter referred to as the "Host Party"), the Host Party shall recognize:

(a) the assignment to the Indemnifying Party of all the rights and claims in respect of such Investment; and

(b) the right of the Indemnifying Party to exercise all such rights and enforce such claims by virtue of subrogation.

(2) The Indemnifying Party shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph (1); and

(b) the same payments due pursuant to those rights and claims,

as the Party Indemnified was entitled to receive by virtue of this Treaty in respect of the Investment concerned.

(3) In any proceeding under Article 26, a Contracting Party shall not assert as a defence, counterclaim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an insurance or guarantee contract.

ARTICLE 16 RELATION TO OTHER AGREEMENTS

Where two or more Contracting Parties have entered into a prior international agreement, or enter into a subsequent international agreement, whose terms in either case concern the subject matter of Part III or V of this Treaty,

(1) nothing in Part III or V of this Treaty shall be construed to derogate from any provision of such terms of the other agreement or from any right to dispute resolution with respect thereto under that agreement; and

(2) nothing in such terms of the other agreement shall be construed to derogate from any provision of Part III or V of this Treaty or from any right to dispute resolution with respect thereto under this Treaty,

where any such provision is more favourable to the Investor or Investment.

ARTICLE 17 NON-APPLICATION OF PART III IN CERTAIN CIRCUMSTANCES

Each Contracting Party reserves the right to deny the advantages of this Part to:

(1) a legal entity if citizens or nationals of a third state own or control such entity and if that entity has no substantial business activities in the Area of the Contracting Party in which it is organized; or

(2) an Investment, if the denying Contracting Party establishes that such Investment is an Investment of an Investor of a third state with or as to which the denying Contracting Party:

(a) does not maintain a diplomatic relationship; or

(b) adopts or maintains measures that:

(i) prohibit transactions with Investors of that state; or

(ii) would be violated or circumvented if the benefits of this Part were accorded to Investors of that state or to their Investments.

PART IV MISCELLANEOUS PROVISIONS

ARTICLE 18 SOVEREIGNTY OVER ENERGY RESOURCES

(1) The Contracting Parties recognize state sovereignty and sovereign rights over energy resources. They reaffirm that these must be exercised in accordance with and subject to the rules of international law.

(2) Without affecting the objectives of promoting access to energy resources, and exploration and development thereof on a commercial basis, the Treaty shall in no way prejudice the rules in Contracting Parties governing the system of property ownership of energy resources.

(3) Each state continues to hold in particular the rights to decide the geographical areas within its Area to be made available for exploration and development of its energy resources, the optimalization of their recovery and the rate at which they may be depleted or otherwise exploited, to specify and enjoy any taxes, royalties or other financial payments payable by virtue of such exploration and exploitation, and to regulate the environmental and safety aspects of such exploration, development and reclamation within its Area, and to participate in such exploration and exploitation, inter alia, through direct participation by the government or through state enterprises.

(4) The Contracting Parties undertake to facilitate access to energy resources, inter alia, by allocating in a non-discriminatory manner on the basis of published criteria authorizations, licences, concessions and contracts to prospect and explore for or to exploit or extract energy resources.

ARTICLE 19 ENVIRONMENTAL ASPECTS

(1) In pursuit of sustainable development and taking into account its obligations under those international agreements concerning the environment to which it is party, each Contracting Party shall strive to minimize in an economically efficient manner harmful Environmental Impacts occurring either within or outside its Area from all operations within the Energy Cycle in its Area, taking proper account of safety. In doing so each Contracting Party shall act in a Cost-Effective manner. In its policies and actions each Contracting Party shall strive to take precautionary measures to prevent or minimize environmental degradation. The Contracting Parties agree that the polluter in the Areas of Contracting Parties, should, in principle, bear the cost of pollution, including transboundary pollution, with due regard to the public interest and without distorting Investment in the Energy Cycle or international trade. Contracting Parties shall accordingly:

(a) take account of environmental considerations throughout the formulation and implementation of their energy policies;

(b) promote market-oriented price formation and a fuller reflection of environmental costs and benefits throughout the Energy Cycle;

(c) having regard to Article 34(4), encourage co-operation in the attainment of the environmental objectives of the Charter and co-operation in the field of international environmental standards for the Energy Cycle, taking into account differences in adverse effects and abatement costs between Contracting Parties;

(d) have particular regard to Improving Energy Efficiency, to developing and using renewable energy sources, to promoting the use of cleaner fuels and to employing technologies and technological means that reduce pollution;

(e) promote the collection and sharing among Contracting Parties of information on environmentally sound and economically efficient energy policies and Cost-Effective practices and technologies;

(f) promote public awareness of the Environmental Impacts of energy systems, of the scope for the prevention or abatement of their adverse Environmental Impacts, and of the costs associated with various prevention or abatement measures;

(g) promote and co-operate in the research, development and application of energy efficient and environmentally sound technologies, practices and processes which will minimize harmful Environmental Impacts of all aspects of the Energy Cycle in an economically efficient manner;

(h) encourage favourable conditions for the transfer and dissemination of such technologies consistent with the adequate and effective protection of Intellectual Property rights;

(i) promote the transparent assessment at an early stage and prior to decision, and subsequent monitoring, of Environmental Impacts of environmentally significant energy investment projects;

(j) promote international awareness and information exchange on Contracting Parties' relevant environmental programmes and standards and on the implementation of those programmes and standards;

(k) participate, upon request, and within their available resources, in the development and implementation of appropriate environmental programmes in the Contracting Parties.

(2) At the request of one or more Contracting Parties, disputes concerning the application or interpretation of provisions of this Article shall, to the extent that arrangements for the consideration of such disputes do not exist in other appropriate international fora, be reviewed by the Charter Conference aiming at a solution.

(3) For the purposes of this Article:

(a) "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts;

(b) "Environmental Impact" means any effect caused by a given activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(c) "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output;

(d) "Cost-Effective" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

ARTICLE 20 TRANSPARENCY

(1) Laws, regulations, judicial decisions and administrative rulings of general application which affect trade in Energy Materials and Products are, in accordance with Article 29(2)(a), among the measures subject to the transparency disciplines of the GATT and relevant Related Instruments.

(2) Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Contracting Party, and agreements in force between Contracting Parties, which affect other matters covered by this Treaty shall also be published promptly in such a manner as to enable Contracting Parties and Investors to become acquainted with them. The provisions of this paragraph shall not require any Contracting Party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any Investor.

(3) Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request.

ARTICLE 21 TAXATION

(1) Except as otherwise provided in this Article, nothing in this Treaty shall create rights or impose obligations with respect to Taxation Measures of the Contracting Parties. In the event of any inconsistency between this Article and any other provision of the Treaty, this Article shall prevail to the extent of the inconsistency.

(2) Article 7(3) shall apply to Taxation Measures other than those on income or on capital, except that such provision shall not apply to:

(a) an advantage accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii); or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure of a Contracting Party arbitrarily discriminates against Energy Materials and Products originating in, or destined for the Area of another Contracting Party or arbitrarily restricts benefits accorded under Article 7(3).

(3) Article 10(2) and (7) shall apply to Taxation Measures of the Contracting Parties other than those on income or on capital, except that such provisions shall not apply to:

(a) impose most favoured nation obligations with respect to advantages accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii) or resulting from membership of any Regional Economic Integration Organization; or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure arbitrarily discriminates against an Investor of another Contracting Party or arbitrarily restricts benefits accorded under the Investment provisions of this Treaty.

(4) Article 29(2) to (6) shall apply to Taxation Measures other than those on income or on capital.

(5) (a) Article 13 shall apply to taxes.

(b) Whenever an issue arises under Article 13, to the extent it pertains to whether a tax constitutes an expropriation or whether a tax alleged to constitute an expropriation is discriminatory, the following provisions shall apply:

(i) The Investor or the Contracting Party alleging expropriation shall refer the issue of whether the tax is an expropriation or whether the tax is discriminatory to the relevant Competent Tax Authority. Failing such referral by the Investor or the Contracting Party, bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) shall make a referral to the relevant Competent Tax Authorities;

(ii) The Competent Tax Authorities shall, within a period of six months of such referral, strive to resolve the issues so referred. Where non-discrimination issues are concerned, the Competent Tax Authorities shall apply the non-discrimination provisions of the relevant tax convention or, if there is no non-discrimination provision in the relevant tax convention applicable to the tax or no such tax convention is in force between the Contracting Parties concerned, they shall apply the non-discrimination principles under the Model Tax Convention on Income and Capital of the Organisation for Economic Co-operation and Development;

(iii) Bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) may take into account any conclusions arrived at by the Competent Tax Authorities regarding whether the tax is an expropriation. Such bodies shall take into account any conclusions arrived at within the six-month period prescribed in subparagraph (b)(ii) by the Competent Tax Authorities regarding whether the tax is discriminatory. Such bodies may also take into account any conclusions arrived at by the Competent Tax Authorities after the expiry of the six-month period;

(iv) Under no circumstances shall involvement of the Competent Tax Authorities, beyond the end of the six-month period referred to in subparagraph (b)(ii), lead to a delay of proceedings under Articles 26 and 27.

(6) For the avoidance of doubt, Article 14 shall not limit the right of a Contracting Party to impose or collect a tax by withholding or other means.

(7) For the purposes of this Article:

(a) The term "Taxation Measure" includes:

(i) any provision relating to taxes of the domestic law of the Contracting Party or of a political subdivision thereof or a local authority therein; and

(ii) any provision relating to taxes of any convention for the avoidance of double taxation or of any other international agreement or arrangement by which the Contracting Party is bound.

(b) There shall be regarded as taxes on income or on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, or substantially similar taxes, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(c) A "Competent Tax Authority" means the competent authority pursuant to a double taxation agreement in force between the Contracting Parties or, when no such agreement is in force, the minister or ministry responsible for taxes or their authorized representatives.

(d) For the avoidance of doubt, the terms "tax provisions" and "taxes" do not include customs duties.

ARTICLE 22 STATE AND PRIVILEGED ENTERPRISES

(1) Each Contracting Party shall ensure that any state enterprise which it maintains or establishes shall conduct its activities in relation to the sale or provision of goods and services in its Area in a manner consistent with the Contracting Party's obligations under Part III of this Treaty.

(2) No Contracting Party shall encourage or require such a state enterprise to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under other provisions of this Treaty.

(3) Each Contracting Party shall ensure that if it establishes or maintains an entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party's obligations under this Treaty.

(4) No Contracting Party shall encourage or require any entity to which it grants exclusive or special privileges to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under this Treaty.

(5) For the purposes of this Article, "entity" includes any enterprise, agency or other organization or individual.

ARTICLE 23 OBSERVANCE BY SUB-NATIONAL AUTHORITIES

(1) Each Contracting Party is fully responsible under this Treaty for the observance of all provisions of the Treaty, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its Area.

(2) The dispute settlement provisions in Parts II, IV and V of this Treaty may be invoked in respect of measures affecting the observance of the Treaty by a Contracting Party which have been taken by regional or local governments or authorities within the Area of the Contracting Party.

ARTICLE 24 EXCEPTIONS

(1) This Article shall not apply to Articles 12, 13 and 29.

(2) The provisions of this Treaty other than

(a) those referred to in paragraph (1); and

(b) with respect to subparagraph (i), Part III of the Treaty

shall not preclude any Contracting Party from adopting or enforcing any measure

(i) necessary to protect human, animal or plant life or health;

(ii) essential to the acquisition or distribution of Energy Materials and Products in conditions of short supply arising from causes outside the control of that Contracting Party, provided that any such measure shall be consistent with the principles that

(A) all other Contracting Parties are entitled to an equitable share of the international supply of such Energy Materials and Products; and

(B) any such measure that is inconsistent with this Treaty shall be discontinued as soon as the conditions giving rise to it have ceased to exist; or

(iii) designed to benefit Investors who are aboriginal people or socially or economically disadvantaged individuals or groups or their Investments and notified to the Secretariat as such, provided that such measure

(A) has no significant impact on that Contracting Party's economy; and

(B) does not discriminate between Investors of any other Contracting Party and Investors of that Contracting Party not included among those for whom the measure is intended,

provided that no such measure shall constitute a disguised restriction on Economic Activity in the Energy Sector, or arbitrary or unjustifiable discrimination between Contracting Parties or between Investors or other interested persons of Contracting Parties. Such measures shall be duly motivated and shall not nullify or impair any benefit one or more other Contracting Parties may reasonably expect under this Treaty to an extent greater than is strictly necessary to the stated end.

(3) The provisions of this Treaty other than those referred to in paragraph (1) shall not be construed to prevent any Contracting Party from taking any measure which it considers necessary:

(a) for the protection of its essential security interests including those

(i) relating to the supply of Energy Materials and Products to a military establishment; or

(ii) taken in time of war, armed conflict or other emergency in international relations;

(b) relating to the implementation of national policies respecting the non-proliferation of nuclear weapons or other nuclear explosive devices or needed to fulfil its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines, and other international nuclear non-proliferation obligations or understandings; or

(c) for the maintenance of public order.

Such measure shall not constitute a disguised restriction on Transit.

(4) The provisions of this Treaty which accord most favoured nation treatment shall not oblige any Contracting Party to extend to the Investors of any other Contracting Party any preferential treatment:

(a) resulting from its membership of a free-trade area or customs union; or

(b) which is accorded by a bilateral or multilateral agreement concerning economic co-operation between states that were constituent parts of the former Union of Soviet Socialist Republics pending the establishment of their mutual economic relations on a definitive basis.

ARTICLE 25 ECONOMIC INTEGRATION AGREEMENTS

(1) The provisions of this Treaty shall not be so construed as to oblige a Contracting Party which is party to an Economic Integration Agreement (hereinafter referred to as "EIA") to extend, by means of most favoured nation treatment, to another Contracting Party which is not a party to that EIA, any preferential treatment applicable between the parties to that EIA as a result of their being parties thereto.

(2) For the purposes of paragraph (1), "EIA" means an agreement substantially liberalizing, inter alia, trade and investment, by providing for the absence or elimination of substantially all discrimination between or among parties thereto through the elimination of existing discriminatory measures and/or the prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time frame.

(3) This Article shall not affect the application of the GATT and Related Instruments according to Article 29.

PART V DISPUTE SETTLEMENT

ARTICLE 26 SETTLEMENT OF DISPUTES BETWEEN AN INVESTOR AND A CONTRACTING PARTY

(1) Disputes between a Contracting Party and an Investor of another Contracting Party relating to an Investment of the latter in the Area of the former, which concern an alleged breach of an obligation of the former under Part III shall, if possible, be settled amicably.

(2) If such disputes can not be settled according to the provisions of paragraph (1) within a period of three months from the date on which either party to the dispute requested amicable settlement, the Investor party to the dispute may choose to submit it for resolution:

(a) to the courts or administrative tribunals of the Contracting Party party to the dispute;

(b) in accordance with any applicable, previously agreed dispute settlement procedure; or

(c) in accordance with the following paragraphs of this Article.

(3) (a) Subject only to subparagraphs (b) and (c), each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration or conciliation in accordance with the provisions of this Article.

(b) (i) The Contracting Parties listed in Annex ID do not give such unconditional consent where the Investor has previously submitted the dispute under subparagraph (2)(a) or (b).

(ii) For the sake of transparency, each Contracting Party that is listed in Annex ID shall provide a written statement of its policies, practices and conditions in this regard to the Secretariat no later than the date of the deposit of its instrument of ratification, acceptance or approval in accordance with Article 39 or the deposit of its instrument of accession in accordance with Article 41.

(c) A Contracting Party listed in Annex IA does not give such unconditional consent with respect to a dispute arising under the last sentence of Article 10(1).

(4) In the event that an Investor chooses to submit the dispute for resolution under subparagraph (2)(c), the Investor shall further provide its consent in writing for the dispute to be submitted to:

(a) (i) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington, 18 March 1965 (hereinafter referred to as the "ICSID Convention"), if the Contracting Party of the Investor and the Contracting Party party to the dispute are both parties to the ICSID Convention; or

(ii) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention referred to in subparagraph (a)(i), under the rules governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Centre (hereinafter referred to as the "Additional Facility Rules"), if the Contracting Party of the Investor or the Contracting Party party to the dispute, but not both, is a party to the ICSID Convention;

(b) a sole arbitrator or ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (hereinafter referred to as "UNCITRAL"); or

(c) an arbitral proceeding under the Arbitration Institute of the Stockholm Chamber of Commerce.

(5) (a) The consent given in paragraph (3) together with the written consent of the Investor given pursuant to paragraph (4) shall be considered to satisfy the requirement for:

(i) written consent of the parties to a dispute for purposes of Chapter II of the ICSID Convention and for purposes of the Additional Facility Rules;

(ii) an "agreement in writing" for purposes of article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958 (hereinafter referred to as the "New York Convention"); and

(iii) "the parties to a contract [to] have agreed in writing" for the purposes of article 1 of the UNCITRAL Arbitration Rules.

(b) Any arbitration under this Article shall at the request of any party to the dispute be held in a state that is a party to the New York Convention. Claims submitted to arbitration hereunder shall be considered to arise out of a commercial relationship or transaction for the purposes of article I of that Convention.

(6) A tribunal established under paragraph (4) shall decide the issues in dispute in accordance with this Treaty and applicable rules and principles of international law.

(7) An Investor other than a natural person which has the nationality of a Contracting Party party to the dispute on the date of the consent in writing referred to in paragraph (4) and which, before a dispute between it and that Contracting Party arises, is controlled by Investors of another Contracting Party, shall for the purpose of article 25(2)(b) of the ICSID Convention be treated as a "national of another Contracting State" and shall for the purpose of article 1(6) of the Additional Facility Rules be treated as a "national of another State".

(8) The awards of arbitration, which may include an award of interest, shall be final and binding upon the parties to the dispute. An award of arbitration concerning a measure of a sub-national government or authority of the disputing Contracting Party shall provide that the Contracting Party may pay monetary damages in lieu of any other remedy granted. Each Contracting Party shall carry out without delay any such award and shall make provision for the effective enforcement in its Area of such awards.

ARTICLE 27 SETTLEMENT OF DISPUTES BETWEEN CONTRACTING PARTIES

(1) Contracting Parties shall endeavour to settle disputes concerning the application or interpretation of this Treaty through diplomatic channels.

(2) If a dispute has not been settled in accordance with paragraph (1) within a reasonable period of time, either party thereto may, except as otherwise provided in this Treaty or agreed in writing by the Contracting Parties, and except as concerns the application or interpretation of Article 6 or Article 19 or, for Contracting Parties listed in Annex IA, the last sentence of Article 10(1), upon written notice to the other party to the dispute submit the matter to an ad hoc tribunal under this Article.

(3) Such an ad hoc arbitral tribunal shall be constituted as follows:

(a) The Contracting Party instituting the proceedings shall appoint one member of the tribunal and inform the other Contracting Party to the dispute of its appointment within 30 days of receipt of the notice referred to in paragraph (2) by the other Contracting Party;

(b) Within 60 days of the receipt of the written notice referred to in paragraph (2), the other Contracting Party party to the dispute shall appoint one member. If the appointment is not made within the time limit prescribed, the Contracting Party having instituted the proceedings may, within 90 days of the receipt of the written notice referred to in paragraph (2), request that the appointment be made in accordance with subparagraph (d);

(c) A third member, who may not be a national or citizen of a Contracting Party party to the dispute, shall be appointed by the Contracting Parties parties to the dispute. That member shall be the President of the tribunal. If, within 150 days of the receipt of the notice referred to in paragraph (2), the Contracting Parties are unable to agree on the appointment of a third member, that appointment shall be made, in accordance with subparagraph (d), at the request of either Contracting Party submitted within 180 days of the receipt of that notice;

(d) Appointments requested to be made in accordance with this paragraph shall be made by the Secretary-General of the Permanent Court of International Arbitration within 30 days of the receipt of a request to do so. If the Secretary-General is prevented from discharging this task, the appointments shall be made by the First Secretary of the Bureau. If the latter, in turn, is prevented from discharging this task, the appointments shall be made by the most senior Deputy;

(e) Appointments made in accordance with subparagraphs (a) to (d) shall be made with regard to the qualifications and experience, particularly in matters covered by this Treaty, of the members to be appointed;

(f) In the absence of an agreement to the contrary between the Contracting Parties, the Arbitration Rules of UNCITRAL shall govern, except to the extent modified by the Contracting Parties parties to the dispute or by the arbitrators. The tribunal shall take its decisions by a majority vote of its members;

(g) The tribunal shall decide the dispute in accordance with this Treaty and applicable rules and principles of international law;

(h) The arbitral award shall be final and binding upon the Contracting Parties parties to the dispute;

(i) Where, in making an award, a tribunal finds that a measure of a regional or local government or authority within the Area of a Contracting Party listed in Part I of Annex P is not in conformity with this Treaty, either party to the dispute may invoke the provisions of Part II of Annex P;

(j) The expenses of the tribunal, including the remuneration of its members, shall be borne in equal shares by the Contracting Parties parties to the dispute. The tribunal may, however, at its discretion direct that a higher proportion of the costs be paid by one of the Contracting Parties parties to the dispute;

(k) Unless the Contracting Parties parties to the dispute agree otherwise, the tribunal shall sit in The Hague, and use the premises and facilities of the Permanent Court of Arbitration;

(l) A copy of the award shall be deposited with the Secretariat which shall make it generally available.

ARTICLE 28 NON-APPLICATION OF ARTICLE 27 TO CERTAIN DISPUTES

A dispute between Contracting Parties with respect to the application or interpretation of Article 5 or 29 shall not be settled under Article 27 unless the Contracting Parties parties to the dispute so agree.

PART VI TRANSITIONAL PROVISIONS

ARTICLE 29 INTERIM PROVISIONS ON TRADE-RELATED MATTERS

(1) The provisions of this Article shall apply to trade in Energy Materials and Products while any Contracting Party is not a party to the GATT and Related Instruments.

(2) (a) Trade in Energy Materials and Products between Contracting Parties at least one of which is not a party to the GATT or a relevant Related Instrument shall be governed, subject to subparagraphs (b) and (c) and to the exceptions and rules provided for in Annex G, by the provisions of GATT 1947 and Related Instruments, as applied on 1 March 1994 and practised with regard to Energy Materials and Products by parties to GATT 1947 among themselves, as if all Contracting Parties were parties to GATT 1947 and Related Instruments.

(b) Such trade of a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics may instead be governed, subject to the provisions of Annex TFU, by an agreement between two or more such states, until 1 December 1999 or the admission of that Contracting Party to the GATT, whichever is the earlier.

(c) As concerns trade between any two parties to the GATT, subparagraph (a) shall not apply if either of those parties is not a party to GATT 1947.

(3) Each signatory to this Treaty, and each state or Regional Economic Integration Organization acceding to this Treaty, shall on the date of its signature or of its deposit of its instrument of accession provide to the Secretariat a list of all tariff rates and other charges levied on Energy Materials and Products at the time of importation or exportation, notifying the level of such rates and charges applied on such date of signature or deposit. Any changes to such rates or other charges shall be notified to the Secretariat, which shall inform the Contracting Parties of such changes.

(4) Each Contracting Party shall endeavour not to increase any tariff rate or other charge levied at the time of importation or exportation:

(a) in the case of the importation of Energy Materials and Products described in Part I of the Schedule relating to the Contracting Party referred to in article II of the GATT, above the level set forth in that Schedule, if the Contracting Party is a party to the GATT;

(b) in the case of the exportation of Energy Materials and Products, and that of their importation if the Contracting Party is not a party to the GATT, above the level most recently notified to the Secretariat, except as permitted by the provisions made applicable by subparagraph (2)(a).

(5) A Contracting Party may increase such tariff rate or other charge above the level referred to in paragraph (4) only if:

(a) in the case of a rate or other charge levied at the time of importation, such action is not inconsistent with the applicable provisions of the GATT other than those provisions of GATT 1947 and Related Instruments listed in Annex G and the corresponding provisions of GATT 1994 and Related Instruments; or

(b) it has, to the fullest extent practicable under its legislative procedures, notified the Secretariat of its proposal for such an increase, given other interested Contracting Parties reasonable opportunity for consultation with respect to its proposal, and accorded consideration to any representations from such Contracting Parties.

(6) Signatories undertake to commence negotiations not later than 1 January 1995 with a view to concluding by 1 January 1998, as appropriate in the light of any developments in the world trading system, a text of an amendment to this Treaty which shall, subject to conditions to be laid down therein, commit each Contracting Party not to increase such tariffs or charges beyond the level prescribed under that amendment.

(7) Annex D shall apply to disputes regarding compliance with provisions applicable to trade under this Article and, unless both Contracting Parties agree otherwise, to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a party to the GATT, except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

(a) has been notified in accordance with and meets the other requirements of subparagraph (2)(b) and Annex TFU; or

(b) establishes a free-trade area or a customs union as described in article XXIV of the GATT.

ARTICLE 30 DEVELOPMENTS IN INTERNATIONAL TRADING ARRANGEMENTS

Contracting Parties undertake that in the light of the results of the Uruguay Round of Multilateral Trade Negotiations embodied principally in the Final Act thereof done at Marrakesh, 15 April 1994, they will commence consideration not later than 1 July 1995 or the entry into force of this Treaty, whichever is the later, of appropriate amendments to this Treaty with a view to the adoption of any such amendments by the Charter Conference.

ARTICLE 31 ENERGY-RELATED EQUIPMENT

The provisional Charter Conference shall at its first meeting commence examination of the inclusion of energy-related equipment in the trade provisions of this Treaty.

ARTICLE 32 TRANSITIONAL ARRANGEMENTS

(1) In recognition of the need for time to adapt to the requirements of a market economy, a Contracting Party listed in Annex T may temporarily suspend full compliance with its obligations under one or more of the following provisions of this Treaty, subject to the conditions in paragraphs (3) to (6):

Article 6(2) and (5)	
Article 7(4)	
Article 9(1)	
Article 10(7)	specific measures
Article 14(1)(d)	related only to transfer of unspent earnings
Article 20(3)	
Article 22(1) and (3)	

(2) Other Contracting Parties shall assist any Contracting Party which has suspended full compliance under paragraph (1) to achieve the conditions under which such suspension can be terminated. This assistance may be given in whatever form the other Contracting Parties consider most effective to respond to the needs notified under subparagraph (4)(c) including, where appropriate, through bilateral or multilateral arrangements.

(3) The applicable provisions, the stages towards full implementation of each, the measures to be taken and the date or, exceptionally, contingent event, by which each stage shall be completed and measure taken are listed in Annex T for each Contracting Party claiming transitional arrangements. Each such Contracting Party shall take the measure listed by the date indicated for the relevant provision and stage as set out in Annex T. Contracting Parties which have temporarily suspended full compliance under paragraph (1) undertake to comply fully with the relevant obligations by 1 July 2001. Should a Contracting Party find it necessary, due to exceptional circumstances, to request that the period of such temporary suspension be extended or that any further temporary suspension not previously listed in Annex T be introduced, the decision on a request to amend Annex T shall be made by the Charter Conference.

(4) A Contracting Party which has invoked transitional arrangements shall notify the Secretariat no less often than once every 12 months:

(a) of the implementation of any measures listed in its Annex T and of its general progress to full compliance;

(b) of the progress it expects to make during the next 12 months towards full compliance with its obligations, of any problem it foresees and of its proposals for dealing with that problem;

(c) of the need for technical assistance to facilitate completion of the stages set out in Annex T as necessary for the full implementation of this Treaty, or to deal with any problem notified pursuant to subparagraph (b) as well as to promote other necessary market-oriented reforms and modernization of its energy sector;

(d) of any possible need to make a request of the kind referred to in paragraph (3).

(5) The Secretariat shall:

(a) circulate to all Contracting Parties the notifications referred to in paragraph (4);

(b) circulate and actively promote, relying where appropriate on arrangements existing within other international organizations, the matching of needs for and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c);

(c) circulate to all Contracting Parties at the end of each six month period a summary of any notifications made under subparagraph (4)(a) or (d).

(6) The Charter Conference shall annually review the progress by Contracting Parties towards implementation of the provisions of this Article and the matching of needs and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c). In the course of that review it may decide to take appropriate action.

PART VII STRUCTURE AND INSTITUTIONS

ARTICLE 33 ENERGY CHARTER PROTOCOLS AND DECLARATIONS

(1) The Charter Conference may authorize the negotiation of a number of Energy Charter Protocols or Declarations in order to pursue the objectives and principles of the Charter.

(2) Any signatory to the Charter may participate in such negotiation.

(3) A state or Regional Economic Integration Organization shall not become a party to a Protocol or Declaration unless it is, or becomes at the same time, a signatory to the Charter and a Contracting Party to this Treaty.

(4) Subject to paragraph (3) and subparagraph (6)(a), final provisions applying to a Protocol shall be defined in that Protocol.

(5) A Protocol shall apply only to the Contracting Parties which consent to be bound by it, and shall not derogate from the rights and obligations of those Contracting Parties not party to the Protocol.

(6) (a) A Protocol may assign duties to the Charter Conference and functions to the Secretariat, provided that no such assignment may be made by an amendment to a Protocol unless that amendment is approved by the Charter Conference, whose approval shall not be subject to any provisions of the Protocol which are authorized by subparagraph (b).

(b) A Protocol which provides for decisions thereunder to be taken by the Charter Conference may, subject to subparagraph (a), provide with respect to such decisions:

(i) for voting rules other than those contained in Article 36;

(ii) that only parties to the Protocol shall be considered to be Contracting Parties for the purposes of Article 36 or eligible to vote under the rules provided for in the Protocol.

ARTICLE 34 ENERGY CHARTER CONFERENCE

(1) The Contracting Parties shall meet periodically in the Energy Charter Conference (referred to herein as the "Charter Conference") at which each Contracting Party shall be entitled to have one representative. Ordinary meetings shall be held at intervals determined by the Charter Conference.

(2) Extraordinary meetings of the Charter Conference may be held at such times as may be determined by the Charter Conference, or at the written request of any Contracting Party, provided that, within six weeks of the request being communicated to the Contracting Parties by the Secretariat, it is supported by at least one-third of the Contracting Parties.

(3) The functions of the Charter Conference shall be to:

(a) carry out the duties assigned to it by this Treaty and any Protocols;

(b) keep under review and facilitate the implementation of the principles of the Charter and of the provisions of this Treaty and the Protocols;

(c) facilitate in accordance with this Treaty and the Protocols the co-ordination of appropriate general measures to carry out the principles of the Charter;

(d) consider and adopt programmes of work to be carried out by the Secretariat;

(e) consider and approve the annual accounts and budget of the Secretariat;

(f) consider and approve or adopt the terms of any headquarters or other agreement, including privileges and immunities considered necessary for the Charter Conference and the Secretariat;

(g) encourage co-operative efforts aimed at facilitating and promoting market-oriented reforms and modernization of energy sectors in those countries of Central and Eastern Europe and the former Union of Soviet Socialist Republics undergoing economic transition;

(h) authorize and approve the terms of reference for the negotiation of Protocols, and consider and adopt the texts thereof and of amendments thereto;

(i) authorize the negotiation of Declarations, and approve their issuance;

(j) decide on accessions to this Treaty;

(k) authorize the negotiation of and consider and approve or adopt association agreements;

(l) consider and adopt texts of amendments to this Treaty;

(m) consider and approve modifications of and technical changes to the Annexes to this Treaty;

(n) appoint the Secretary-General and take all decisions necessary for the establishment and functioning of the Secretariat including the structure, staff levels and standard terms of employment of officials and employees.

(4) In the performance of its duties, the Charter Conference, through the Secretariat, shall co-operate with and make as full a use as possible, consistently with economy and efficiency, of the services and programmes of other institutions and organizations with established competence in matters related to the objectives of this Treaty.

(5) The Charter Conference may establish such subsidiary bodies as it considers appropriate for the performance of its duties.

(6) The Charter Conference shall consider and adopt rules of procedure and financial rules.

(7) In 1999 and thereafter at intervals (of not more than five years) to be determined by the Charter Conference, the Charter Conference shall thoroughly review the functions provided for in this Treaty in the light of the extent to which the provisions of the Treaty and Protocols have been implemented. At the conclusion of each review the Charter Conference may amend or abolish the functions specified in paragraph (3) and may discharge the Secretariat.

ARTICLE 35 SECRETARIAT

(1) In carrying out its duties, the Charter Conference shall have a Secretariat which shall be composed of a Secretary-General and such staff as are the minimum consistent with efficient performance.

(2) The Secretary-General shall be appointed by the Charter Conference. The first such appointment shall be for a maximum period of five years.

(3) In the performance of its duties the Secretariat shall be responsible to and report to the Charter Conference.

(4) The Secretariat shall provide the Charter Conference with all necessary assistance for the performance of its duties and shall carry out the functions assigned to it in this Treaty or in any Protocol and any other functions assigned to it by the Charter Conference.

(5) The Secretariat may enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions.

ARTICLE 36 VOTING

(1) Unanimity of the Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions by the Charter Conference to:

(a) adopt amendments to this Treaty other than amendments to Articles 34 and 35 and Annex T;

(b) approve accessions to this Treaty under Article 41 by states or Regional Economic Integration Organizations which were not signatories to the Charter as of 16 June 1995;

(c) authorize the negotiation of and approve or adopt the text of association agreements;

(d) approve modifications to Annexes EM, NI, G and B;

(e) approve technical changes to the Annexes to this Treaty; and

(f) approve the Secretary-General's nominations of panelists under Annex D, paragraph (7).

The Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Treaty. If agreement cannot be reached by consensus, paragraphs (2) to (5) shall apply.

(2) Decisions on budgetary matters referred to in Article 34(3)(e) shall be taken by a qualified majority of Contracting Parties whose assessed contributions as specified in Annex B represent, in combination, at least three-fourths of the total assessed contributions specified therein.

(3) Decisions on matters referred to in Article 34(7) shall be taken by a three-fourths majority of the Contracting Parties.

(4) Except in cases specified in subparagraphs (1)(a) to (f), paragraphs (2) and (3), and subject to paragraph (6), decisions provided for in this Treaty shall be taken by a three-fourths majority of the Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

(5) For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

(6) Except as provided in paragraph (2), no decision referred to in this Article shall be valid unless it has the support of a simple majority of the Contracting Parties.

(7) A Regional Economic Integration Organization shall, when voting, have a number of votes equal to the number of its member states which are Contracting Parties to this Treaty; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

(8) In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Treaty, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

ARTICLE 37 FUNDING PRINCIPLES

(1) Each Contracting Party shall bear its own costs of representation at meetings of the Charter Conference and any subsidiary bodies.

(2) The cost of meetings of the Charter Conference and any subsidiary bodies shall be regarded as a cost of the Secretariat.

(3) The costs of the Secretariat shall be met by the Contracting Parties assessed according to their capacity to pay, determined as specified in Annex B, the provisions of which may be modified in accordance with Article 36(1)(d).

(4) A Protocol shall contain provisions to assure that any costs of the Secretariat arising from that Protocol are borne by the parties thereto.

(5) The Charter Conference may in addition accept voluntary contributions from one or more Contracting Parties or from other sources. Costs met from such contributions shall not be considered costs of the Secretariat for the purposes of paragraph (3).

PART VIII FINAL PROVISIONS

ARTICLE 38 SIGNATURE

This Treaty shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations which have signed the Charter.

ARTICLE 39 RATIFICATION, ACCEPTANCE OR APPROVAL

This Treaty shall be subject to ratification, acceptance or approval by signatories. Instruments of ratification, acceptance or approval shall be deposited with the Depository.

ARTICLE 40 APPLICATION TO TERRITORIES

(1) Any state or Regional Economic Integration Organization may at the time of signature, ratification, acceptance, approval or accession, by a declaration deposited with the Depository, declare that the Treaty shall be binding upon it with respect to all the territories for the international relations of which it is responsible, or to one or more of them. Such declaration shall take effect at the time the Treaty enters into force for that Contracting Party.

(2) Any Contracting Party may at a later date, by a declaration deposited with the Depository, bind itself under this Treaty with respect to other territory specified in the declaration. In respect of such territory the Treaty shall enter into force on the ninetieth day following the receipt by the Depository of such declaration.

(3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification to the Depository. The withdrawal shall, subject to the applicability of Article 47(3), become effective upon the expiry of one year after the date of receipt of such notification by the Depository.

(4) The definition of "Area" in Article 1(10) shall be construed having regard to any declaration deposited under this Article.

ARTICLE 41 ACCESSION

This Treaty shall be open for accession, from the date on which the Treaty is closed for signature, by states and Regional Economic Integration Organizations which have signed the Charter, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depository.

ARTICLE 42 AMENDMENTS

(1) Any Contracting Party may propose amendments to this Treaty.

(2) The text of any proposed amendment to this Treaty shall be communicated to the Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

(3) Amendments to this Treaty, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depository which shall submit them to all Contracting Parties for ratification, acceptance or approval.

(4) Instruments of ratification, acceptance or approval of amendments to this Treaty shall be deposited with the Depository. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the ninetieth day after deposit with the Depository of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the ninetieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

ARTICLE 43 ASSOCIATION AGREEMENTS

(1) The Charter Conference may authorize the negotiation of association agreements with states or Regional Economic Integration Organizations, or with international organizations, in order to pursue the objectives and principles of the Charter and the provisions of this Treaty or one or more Protocols.

(2) The relationship established with and the rights enjoyed and obligations incurred by an associating state, Regional Economic Integration Organization, or international organization shall be appropriate to the particular circumstances of the association, and in each case shall be set out in the association agreement.

ARTICLE 44 ENTRY INTO FORCE

(1) This Treaty shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter as of 16 June 1995.

(2) For each state or Regional Economic Integration Organization which ratifies, accepts or approves this Treaty or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance or approval, it shall enter into force on the ninetieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

(3) For the purposes of paragraph (1), any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member states of such Organization.

ARTICLE 45 PROVISIONAL APPLICATION

(1) Each signatory agrees to apply this Treaty provisionally pending its entry into force for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its constitution, laws or regulations.

(2) (a) Notwithstanding paragraph (1) any signatory may, when signing, deliver to the Depository a declaration that it is not able to accept provisional application. The obligation contained in paragraph (1) shall not apply to a signatory making such a declaration. Any such signatory may at any time withdraw that declaration by written notification to the Depository.

(b) Neither a signatory which makes a declaration in accordance with subparagraph (a) nor Investors of that signatory may claim the benefits of provisional application under paragraph (1).

(c) Notwithstanding subparagraph (a), any signatory making a declaration referred to in subparagraph (a) shall apply Part VII provisionally pending the entry into force of the Treaty for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its laws or regulations.

(3) (a) Any signatory may terminate its provisional application of this Treaty by written notification to the Depository of its intention not to become a Contracting Party to the Treaty. Termination of provisional application for any signatory shall take effect upon the expiration of 60 days from the date on which such signatory's written notification is received by the Depository.

(b) In the event that a signatory terminates provisional application under subparagraph (a), the obligation of the signatory under paragraph (1) to apply Parts III and V with respect to any Investments made in its Area during such provisional application by Investors of other signatories shall nevertheless remain in effect with respect to those Investments for twenty years following the effective date of termination, except as otherwise provided in subparagraph (c).

(c) Subparagraph (b) shall not apply to any signatory listed in Annex PA. A signatory shall be removed from the list in Annex PA effective upon delivery to the Depository of its request therefor.

(4) Pending the entry into force of this Treaty the signatories shall meet periodically in the provisional Charter Conference, the first meeting of which shall be convened by the provisional Secretariat referred to in paragraph (5) not later than 180 days after the opening date for signature of the Treaty as specified in Article 38.

(5) The functions of the Secretariat shall be carried out on an interim basis by a provisional Secretariat until the entry into force of this Treaty pursuant to Article 44 and the establishment of a Secretariat.

(6) The signatories shall, in accordance with and subject to the provisions of paragraph (1) or subparagraph (2)(c) as appropriate, contribute to the costs of the provisional Secretariat as if the signatories were Contracting Parties under Article 37(3). Any modifications made to Annex B by the signatories shall terminate upon the entry into force of this Treaty.

(7) A state or Regional Economic Integration Organization which, prior to this Treaty's entry into force, accedes to the Treaty in accordance with Article 41 shall, pending the Treaty's entry into force, have the rights and assume the obligations of a signatory under this Article.

ARTICLE 46 RESERVATIONS

No reservations may be made to this Treaty.

ARTICLE 47 WITHDRAWAL

(1) At any time after five years from the date on which this Treaty has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depository of its withdrawal from the Treaty.

(2) Any such withdrawal shall take effect upon the expiry of one year after the date of the receipt of the notification by the Depository, or on such later date as may be specified in the notification of withdrawal.

(3) The provisions of this Treaty shall continue to apply to Investments made in the Area of a Contracting Party by Investors of other Contracting Parties or in the Area of other Contracting Parties by Investors of that Contracting Party as of the date when that Contracting Party's withdrawal from the Treaty takes effect for a period of 20 years from such date.

(4) All Protocols to which a Contracting Party is party shall cease to be in force for that Contracting Party on the effective date of its withdrawal from this Treaty.

ARTICLE 48 STATUS OF ANNEXES AND DECISIONS

The Annexes to this Treaty and the Decisions set out in Annex 2 to the Final Act of the European Energy Charter Conference signed at Lisbon on 17 December 1994 are integral parts of the Treaty.

ARTICLE 49 DEPOSITORY

The Government of the Portuguese Republic shall be the Depository of this Treaty.

ARTICLE 50 AUTHENTIC TEXTS

In witness whereof the undersigned, being duly authorized to that effect, have signed this Treaty in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic.

Done at Lisbon on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

ANNEXES TO THE ENERGY CHARTER TREATY

ANNEX EM ENERGY MATERIAL AND PRODUCTS (In accordance with Article 1(4))

Nuclear energy	26.12	Uranium or thorium ores and concentrates.
	26.12.10	Uranium ores and concentrates.
	26.12.20	Thorium ores and concentrates.
	28.44	Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.
	28.44.10	Natural uranium and its compounds.
	28.44.20	Uranium enriched in U235 and its compounds; plutonium and its compounds.
	28.44.30	Uranium depleted in U235 and its compounds; thorium and its compounds.
	28.44.40	Radioactive elements and isotopes and radioactive compounds other than 28.44.10, 28.44.20 or 28.44.30.
	28.44.50	Spent (irradiated) fuel elements (cartridges) of nuclear reactors.
	28.45.10	Heavy water (deuterium oxide).
Coal, Natural Gas, Petroleum and Petroleum Products, Electrical Energy	27.01	Coal, briquettes, ovoids and similar solid fuels manufactured from coal.
	27.02	Lignite, whether or not agglomerated excluding jet.
	27.03	Peat (including peat litter), whether or not agglomerated.
	27.04	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon.
	27.05	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons.
	27.06	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars.
	27.07	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents (e.g., benzole, toluole, xylole, naphtalene, other aromatic hydrocarbon mixtures, phenols, creosote oils and others).
	27.08	Pitch and pitch coke, obtained from coal tar or from other mineral tars.
	27.09	Petroleum oils and oils obtained from bituminous minerals, crude.
	27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude.

27.11 Liquified petroleum gases and other gaseous hydrocarbons
— natural gas
— propane
— butanes
— ethylene, propylene, butylene and butadiene (27.11.14)
— other

In gaseous state:
— natural gas
— other

27.13 Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals.

27.14 Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks.

27.15 Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (e.g., bituminous mastics, cut-backs).

27.16 Electrical energy.

Other Energy

44.01.10 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms.

44.02 Charcoal (including charcoal from shells or nuts), whether or not agglomerated.

ANNEX NI NON-APPLICABLE ENERGY MATERIALS AND PRODUCTS FOR DEFINITIONS OF "ECONOMIC ACTIVITY IN THE ENERGY SECTOR" (In accordance with Article 1(5))

27.07 Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents (e.g., benzole, toluole, xylole, naphtalene, other aromatic hydrocarbon mixtures, phenols, creosote oils and others).

44.01.10 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms.

44.02 Charcoal (including charcoal from shells or nuts), whether or not agglomerated.

ANNEX TRM NOTIFICATION AND PHASE-OUT (TRIMS) (In accordance with Article 5(4))

(1) Each Contracting Party shall notify to the Secretariat all trade-related investment measures which it applies that are not in conformity with the provisions of Article 5, within:

(a) 90 days after the entry into force of this Treaty if the Contracting Party is a party to the GATT; or

(b) 12 months after the entry into force of this Treaty if the Contracting Party is not a party to the GATT.

Such trade-related investment measures of general or specific application shall be notified along with their principal features.

(2) In the case of trade-related investment measures applied under discretionary authority, each specific application shall be notified. Information that would prejudice the legitimate commercial interests of particular enterprises need not be disclosed.

(3) Each Contracting Party shall eliminate all trade-related investment measures which are notified under paragraph (1) within:

(a) two years from the date of entry into force of this Treaty if the Contracting Party is a party to the GATT; or

(b) three years from the date of entry into force of this Treaty if the Contracting Party is not a party to the GATT.

(4) During the applicable period referred to in paragraph (3) a Contracting Party shall not modify the terms of any trade-related investment measure which it notifies under paragraph (1) from those prevailing at the date of entry into force of this Treaty so as to increase the degree of inconsistency with the provisions of Article 5 of this Treaty.

(5) Notwithstanding the provisions of paragraph (4), a Contracting Party, in order not to disadvantage established enterprises which are subject to a trade-related investment measure notified under paragraph (1), may apply during the phase-out period the same trade-related investment measure to a new Investment where:

(a) the products of such Investment are like products to those of the established enterprises; and

(b) such application is necessary to avoid distorting the conditions of competition between the new Investment and the established enterprises.

Any trade-related investment measure so applied to a new Investment shall be notified to the Secretariat. The terms of such a trade-related investment measure shall be equivalent in their competitive effect to those applicable to the established enterprises, and it shall be terminated at the same time.

(6) Where a state or Regional Economic Integration Organization accedes to this Treaty after the Treaty has entered into force:

(a) the notification referred to in paragraphs (1) and (2) shall be made by the later of the applicable date in paragraph (1) or the date of deposit of the instrument of accession; and

(b) the end of the phase-out period shall be the later of the applicable date in paragraph (3) or the date on which the Treaty enters into force for that state or Regional Economic Integration Organization.

ANNEX N LIST OF CONTRACTING PARTIES REQUIRING AT LEAST 3 SEPARATE AREAS TO BE INVOLVED IN A TRANSIT (In accordance with Article 7(10)(a))

1. Canada and United States of America

ANNEX VC LIST OF CONTRACTING PARTIES WHICH HAVE MADE VOLUNTARY BINDING COMMITMENTS IN RESPECT OF ARTICLE 10(3)
(In accordance with Article 10(6))

ANNEX ID LIST OF CONTRACTING PARTIES NOT ALLOWING AN INVESTOR TO RESUBMIT THE SAME DISPUTE TO INTERNATIONAL ARBITRATION AT A LATER STAGE UNDER ARTICLE 26
(In accordance with Article 26(3)(b)(i))

1. Australia
2. Azerbaijan
3. Bulgaria
4. Canada
5. Croatia
6. Cyprus
7. The Czech Republic
8. European Communities
9. Finland
10. Greece
11. Hungary
12. Ireland
13. Italy
14. Japan
15. Kazakhstan
16. Norway
17. Poland
18. Portugal
19. Romania
20. The Russian Federation
21. Slovenia
22. Spain
23. Sweden
24. United States of America

ANNEX IA LIST OF CONTRACTING PARTIES NOT ALLOWING AN INVESTOR OF CONTRACTING PARTY TO SUBMIT A DISPUTE CONCERNING THE LAST SENTENCE OF ARTICLE 10(1) TO INTERNATIONAL ARBITRATION
(In accordance with Articles 26(3)(c) and 27(2))

1. Australia
2. Canada
3. Hungary
4. Norway

ANNEX PS SPECIAL SUB-NATIONAL DISPUTE PROCEDURE (In accordance with Article 27(3)(i))

PART I

1. Canada
2. Australia

PART II

(1) Where, in making an award, the tribunal finds that a measure of a regional or local government or authority of a Contracting Party (hereinafter referred to as the "Responsible Party") is not in conformity with a provision of this Treaty, the Responsible Party shall take such reasonable measures as may be available to it to ensure observance of the Treaty in respect of the measure.

(2) The Responsible Party shall, within 30 days from the date the award is made, provide to the Secretariat written notice of its intentions as to ensuring observance of the Treaty in respect of the measure. The Secretariat shall present the notification to the Charter Conference at the earliest practicable opportunity, and no later than the meeting of the Charter Conference following receipt of the notice. If it is impracticable to ensure observance immediately, the Responsible Party shall have a reasonable period of time in which to do so. The reasonable period of time shall be agreed by both parties to the dispute. In the event that such agreement is not reached, the Responsible Party shall propose a reasonable period for approval by the Charter Conference.

(3) Where the Responsible Party fails, within the reasonable period of time, to ensure observance in respect of the measure, it shall at the request of the other Contracting Party party to the dispute (hereinafter referred to as the "Injured Party") endeavour to agree with the Injured Party on appropriate compensation as a mutually satisfactory resolution of the dispute.

(4) If no satisfactory compensation has been agreed within 20 days of the request of the Injured Party, the Injured Party may with the authorization of the Charter Conference suspend such of its obligations to the Responsible Party under the Treaty as it considers equivalent to those denied by the measure in question, until such time as the Contracting Parties have reached agreement on a resolution of their dispute or the non-conforming measure has been brought into conformity with the Treaty.

(5) In considering what obligations to suspend, the Injured Party shall apply the following principles and procedures:

(a) The Injured Party should first seek to suspend obligations with respect to the same Part of the Treaty as that in which the tribunal has found a violation.

(b) If the Injured Party considers that it is not practicable or effective to suspend obligations with respect to the same Part of the Treaty, it may seek to suspend obligations in other Parts of the Treaty. If the Injured Party decides to request authorization to suspend obligations under this subparagraph, it shall state the reasons therefor in its request to the Charter Conference for authorization.

(6) On written request of the Responsible Party, delivered to the Injured Party and to the President of the tribunal that rendered the award, the tribunal shall determine whether the level of obligations suspended by the Injured Party is excessive, and if so, to what extent. If the tribunal cannot be reconstituted, such determination shall be made by one or more arbitrators appointed by the Secretary-General. Determinations pursuant to this paragraph shall be completed within 60 days of the request to the tribunal or the appointment by the Secretary-General. Obligations shall not be suspended pending the determination, which shall be final and binding.

(7) In suspending any obligations to a Responsible Party, an Injured Party shall make every effort not to affect adversely the rights under the Treaty of any other Contracting Party.

ANNEX G EXCEPTIONS AND RULES GOVERNING THE APPLICATION OF THE PROVISIONS OF THE GATT AND RELATED INSTRUMENTS (IN ACCORDANCE WITH ARTICLE 29(2)(a))

(1) The following provisions of GATT 1947 and Related Instruments shall not be applicable under Article 29(2)(a):

(a) General Agreement on Tariffs and Trade

II	Schedules of Concessions (and the Schedules to the General Agreement on Tariffs and Trade)
IV	Special Provisions relating to Cinematographic Films
XV	Exchange Arrangements
XVIII	Governmental Assistance to Economic Development
XXII	Consultation
XXIII	Nullification or Impairment
XXV	Joint Action by the Contracting Parties
XXVI	Acceptance. Entry into Force and Registration
XXVII	Withholding or Withdrawal of Concessions
XXVIII	Modification of Schedules
XXVIIIbis	Tariff Negotiations
XXIX	The relation of this Agreement to the Havana Charter
XXX	Amendments
XXXI	Withdrawal
XXXII	Contracting Parties
XXXIII	Accession
XXXV	Non-application of the Agreement between particular Contracting Parties
XXXVI	Principles and Objectives
XXXVII	Commitments
XXXVIII	Joint Action
Annex H	Relating to Article XXVI
Annex I	Notes and Supplementary Provisions (related to above GATT articles)

Safeguard Action for Development Purposes

Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

(b) Related Instruments

(i) Agreement on Technical Barriers to Trade (Standards Code)

Preamble	(paragraphs 1, 8, 9)
1.3	General provisions
2.6.4	Preparation, adoption and application of technical regulations and standards by central government bodies
10.6	Information about technical regulations, standards and certification systems
11	Technical assistance to other Parties
12	Special and differential treatment of developing countries
13	The Committee on Technical Barriers to Trade
14	Consultation and dispute settlement
15	Final provisions (other than 15.5 and 15.13)
Annex 2	Technical Expert Groups
Annex 3	Panels

(ii) Agreement on Government Procurement

(iii) Agreement on Interpretation and Application of Articles VI, XVI and XXIII (Subsidies and Countervailing Measures)

10 Export subsidies on certain primary products
12 Consultations
13 Conciliation, dispute settlement and authorized counter measures
14 Developing countries
16 Committee on Subsidies and Countervailing Measures
17 Conciliation
18 Dispute settlement
19.2 Acceptance and accession
19.4 Entry into force
19.5(a) National legislation
19.6 Review
19.7 Amendments
19.8 Withdrawal
19.9 Non-application of this Agreement between particular signatories
19.11 Secretariat
19.12 Deposit
19.13 Registration

(iv) Agreement on Implementation of Article VII (Customs Valuation)

1.2(b)(iv) Transaction value
11.1 Determination of customs value
14 Application of Annexes (second sentence)
18 Institutions (Committee on Customs Valuation)
19 Consultation
20 Dispute settlement
21 Special and differential treatment of developing countries
22 Acceptance and accession
24 Entry into force
25.1 National legislation
26 Review
27 Amendments
28 Withdrawal
29 Secretariat
30 Deposit
31 Registration
Annex II Technical Committee on Customs Valuation
Annex III Ad Hoc Panels

Protocol to the Agreement on Implementation of Article VII (except I.7 and I.8; with necessary conforming introductory language)

(v) Agreement on Import Licensing Procedures

1.4 General provisions (last sentence)
2.2 Automatic import licensing (footnote 2)
4 Institutions, consultation and dispute settlement
5 Final provisions (except paragraph 2)

(vi) Agreement on Implementation of Article VI (Antidumping Code)

13 Developing Countries
14 Committee on Anti-Dumping Practices
15 Consultation, Conciliation and Dispute Settlement
16 Final Provisions (except paragraphs 1 and 3)

(vii) Arrangement Regarding Bovine Meat

(viii) International Dairy Arrangement

(ix) Agreement on Trade in Civil Aircraft

(x) Declaration on Trade Measures Taken for Balance-of-Payments Purposes.

(c) All other provisions in the GATT or Related Instruments which relate to:

(i) governmental assistance to economic development and the treatment of developing countries, except for paragraphs (1) to (4) of the Decision of 28 November 1979 (L/4903) on Differential and more Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

(ii) the establishment or operation of specialist committees and other subsidiary institutions;

(iii) signature, accession, entry into force, withdrawal, deposit and registration.

(d) All agreements, arrangements, decisions, understandings or other joint action pursuant to the provisions listed in subparagraphs (a) to (c).

(2) Contracting Parties shall apply the provisions of the "Declaration on Trade Measures Taken for Balance-of-Payments Purposes" to measures taken by those Contracting Parties which are not parties to the GATT, to the extent practicable in the context of the other provisions of this Treaty.

(3) With respect to notifications required by the provisions made applicable by Article 29(2)(a):

(a) Contracting Parties which are not parties to the GATT or a Related Instrument shall make their notifications to the Secretariat. The Secretariat shall circulate copies of the notifications to all Contracting Parties. Notifications to the Secretariat shall be in one of the authentic languages of this Treaty. The accompanying documents may be solely in the language of the Contracting Party;

(b) such requirements shall not apply to Contracting Parties to this Treaty which are also parties to the GATT and Related Instruments, which contain their own notification requirements.

(4) Trade in nuclear materials may be governed by agreements referred to in the Declarations related to this paragraph contained in the Final Act of the European Energy Charter Conference.

ANNEX TFU PROVISIONS REGARDING TRADE AGREEMENTS BETWEEN STATES WHICH WERE CONSTITUENT PARTS OF THE FORMER UNION OF SOVIET SOCIALIST REPUBLICS
(In accordance with Article 29(2)(b))

(1) Any agreement referred to in Article 29(2)(b) shall be notified in writing to the Secretariat by or on behalf of all of the parties to such agreement which sign or accede to this Treaty:

(a) in respect of an agreement in force as of a date three months after the date on which the first of such parties signs or deposits its instrument of accession to the Treaty, no later than six months after such date of signature or deposit; and

(b) in respect of an agreement which enters into force on a date subsequent to the date referred to in subparagraph (a), sufficiently in advance of its entry into force for other states or Regional Economic Integration Organizations which have signed or acceded to the Treaty (hereinafter referred to as the "Interested Parties") to have a reasonable opportunity to review the agreement and make representations concerning it to the parties thereto and to the Charter Conference prior to such entry into force.

(2) The notification shall include:

(a) copies of the original texts of the agreement in all languages in which it has been signed;

(b) a description, by reference to the items included in Annex EM, of the specific Energy Materials and Products to which it applies;

(c) an explanation, separately for each relevant provision of the GATT and Related Instruments made applicable by Article 29(2)(a), of the circumstances which make it impossible or impracticable for the parties to the agreement to conform fully with that provision;

(d) the specific measures to be adopted by each party to the agreement to address the circumstances referred to in subparagraph (c); and

(e) a description of the parties' programmes for achieving a progressive reduction and ultimate elimination of the agreement's non-conforming provisions.

(3) Parties to an agreement notified in accordance with paragraph (1) shall afford to the Interested Parties a reasonable opportunity to consult with them with respect to such agreement, and shall accord consideration to their representations. Upon the request of any of the Interested Parties, the agreement shall be considered by the Charter Conference, which may adopt recommendations with respect thereto.

(4) The Charter Conference shall periodically review the implementation of agreements notified pursuant to paragraph (1) and the progress having been made towards the elimination of provisions thereof that do not conform with provisions of the GATT and Related Instruments made applicable by Article 29(2)(a). Upon the request of any of the Interested Parties, the Charter Conference may adopt recommendations with respect to such an agreement.

(5) An agreement described in Article 29(2)(b) may in case of exceptional urgency be allowed to enter into force without the notification and consultation provided for in subparagraph (1)(b), paragraphs (2) and (3), provided that such notification takes place and the opportunity for such consultation is afforded promptly. In such a case the parties to the agreement shall nevertheless notify its text in accordance with subparagraph (2)(a) promptly upon its entry into force.

(6) Contracting Parties which are or become parties to an agreement described in Article 29(2)(b) undertake to limit the non-conformities thereof with the provisions of the GATT and Related Instruments made applicable by Article 29(2)(a) to those necessary to address the particular circumstances and to implement such an agreement so as least to deviate from those provisions. They shall make every effort to take remedial action in light of representations from the Interested Parties and of any recommendations of the Charter Conference.

ANNEX D INTERIM PROVISIONS FOR TRADE DISPUTE SETTLEMENT (In accordance with Article 29(7))

(1) (a) In their relations with one another, Contracting Parties shall make every effort through co-operation and consultations to arrive at a mutually satisfactory resolution of any dispute about existing measures that might materially affect compliance with the provisions applicable to trade under Article 5 or 29.

(b) A Contracting Party may make a written request to any other Contracting Party for consultations regarding any existing measure of the other Contracting Party that it considers might affect materially compliance with provisions applicable to trade under Article 5 or 29. A Contracting Party which requests consultations shall to the fullest extent possible indicate the measure complained of and specify the provisions of Article 5 or 29 and of the GATT and Related Instruments that it considers relevant. Requests to consult pursuant to this paragraph shall be notified to the Secretariat, which shall periodically inform the Contracting Parties of pending consultations that have been notified.

(c) A Contracting Party shall treat any confidential or proprietary information identified as such and contained in or received in response to a written request, or received in the course of consultations, in the same manner in which it is treated by the Contracting Party providing the information.

(d) In seeking to resolve matters considered by a Contracting Party to affect compliance with provisions applicable to trade under Article 5 or 29 as between itself and another Contracting Party, the Contracting Parties participating in consultations or other dispute settlement shall make every effort to avoid a resolution that adversely affects the trade of any other Contracting Party.

(2) (a) If, within 60 days from the receipt of the request for consultation referred to in subparagraph (1)(b), the Contracting Parties have not resolved their dispute or agreed to resolve it by conciliation, mediation, arbitration or other method, either Contracting Party may deliver to the Secretariat a written request for the establishment of a panel in accordance with subparagraphs (b) to (f). In its request the requesting Contracting Party shall state the substance of the dispute and indicate which provisions of Article 5 or 29 and of the GATT and Related Instruments are considered relevant. The Secretariat shall promptly deliver copies of the request to all Contracting Parties.

(b) The interests of other Contracting Parties shall be taken into account during the resolution of a dispute. Any other Contracting Party having a substantial interest in a matter shall have the right to be heard by the panel and to make written submissions to it, provided that both the disputing Contracting Parties and the Secretariat have received written notice of its interest no later than the date of establishment of the panel, as determined in accordance with subparagraph (c).

(c) A panel shall be deemed to be established 45 days after the receipt of the written request of a Contracting Party by the Secretariat pursuant to subparagraph (a).

(d) A panel shall be composed of three members who shall be chosen by the Secretary-General from the roster described in paragraph (7). Except where the disputing Contracting Parties agree otherwise, the members of a panel shall not be citizens of Contracting Parties which either are party to the dispute or have notified their interest in accordance with subparagraph (b), or citizens of states members of a Regional Economic Integration Organization which either is party to the dispute or has notified its interest in accordance with subparagraph (b).

(e) The disputing Contracting Parties shall respond within ten working days to the nominations of panel members and shall not oppose nominations except for compelling reasons.

(f) Panel members shall serve in their individual capacities and shall neither seek nor take instruction from any government or other body. Each Contracting Party undertakes to respect these principles and not to seek to influence panel members in the performance of their tasks. Panel members shall be selected with a view to ensuring their independence, and that a sufficient diversity of backgrounds and breadth of experience are reflected in a panel.

(g) The Secretariat shall promptly notify all Contracting Parties that a panel has been constituted.

(3) (a) The Charter Conference shall adopt rules of procedure for panel proceedings consistent with this Annex. Rules of procedure shall be as close as possible to those of the GATT and Related Instruments. A panel shall also have the right to adopt additional rules of procedure not inconsistent with the rules of procedure adopted by the Charter Conference or with this Annex. In a proceeding before a panel each disputing Contracting Party and any other Contracting Party which has notified its interest in accordance with subparagraph (2)(b), shall have the right to at least one hearing before the panel and to provide a written submission. Disputing Contracting Parties shall also have the right to provide a written rebuttal. A panel may grant a request by any other Contracting Party which has notified its interest in accordance with subparagraph (2)(b) for access to any written submission made to the panel, with the consent of the Contracting Party which has made it.

The proceedings of a panel shall be confidential. A panel shall make an objective assessment of the matters before it, including the facts of the dispute and the compliance of measures with the provisions applicable to trade under Article 5 or 29. In exercising its functions, a panel shall consult with the disputing Contracting Parties and give them adequate opportunity to arrive at a mutually satisfactory solution. Unless otherwise agreed by the disputing Contracting Parties, a panel shall base its decision on the arguments and submissions of the disputing Contracting Parties. Panels shall be guided by the interpretations given to the GATT and Related Instruments within the framework of the GATT, and shall not question the compatibility with Article 5 or 29 of practices applied by any Contracting Party which is a party to the GATT to other parties to the GATT to which it applies the GATT and which have not been taken by those other parties to dispute resolution under the GATT.

Unless otherwise agreed by the disputing Contracting Parties, all procedures involving a panel, including the issuance of its final report, should be completed within 180 days of the date of establishment of the panel; however, a failure to complete all procedures within this period shall not affect the validity of a final report.

(b) A panel shall determine its jurisdiction; such determination shall be final and binding. Any objection by a disputing Contracting Party that a dispute is not within the jurisdiction of the panel shall be considered by the panel, which shall decide whether to deal with the objection as a preliminary question or to join it to the merits of the dispute.

(c) In the event of two or more requests for establishment of a panel in relation to disputes that are substantively similar, the Secretary-General may with the consent of all the disputing Contracting Parties appoint a single panel.

(4) (a) After having considered rebuttal arguments, a panel shall submit to the disputing Contracting Parties the descriptive sections of its draft written report, including a statement of the facts and a summary of the arguments made by the disputing Contracting Parties. The disputing Contracting Parties shall be afforded an opportunity to submit written comments on the descriptive sections within a period set by the panel.

Following the date set for receipt of comments from the Contracting Parties, the panel shall issue to the disputing Contracting Parties an interim written report, including both the descriptive sections and the panel's proposed findings and conclusions. Within a period set by the panel a disputing Contracting Party may submit to the panel a written request that the panel review specific aspects of the interim report before issuing a final report. Before issuing a final report the panel may, in its discretion, meet with the disputing Contracting Parties to consider the issues raised in such a request.

The final report shall include descriptive sections (including a statement of the facts and a summary of the arguments made by the disputing Contracting Parties), the panel's findings and conclusions, and a discussion of arguments made on specific aspects of the interim report at the stage of its review. The final report shall deal with every substantial issue raised before the panel and necessary to the resolution of the dispute and shall state the reasons for the panel's conclusions.

A panel shall issue its final report by providing it promptly to the Secretariat and to the disputing Contracting Parties. The Secretariat shall at the earliest practicable opportunity distribute the final report, together with any written views that a disputing Contracting Party desires to have appended, to all Contracting Parties.

(b) Where a panel concludes that a measure introduced or maintained by a Contracting Party does not comply with a provision of Article 5 or 29 or with a provision of the GATT or a Related Instrument that applies under Article 29, the panel may recommend in its final report that the Contracting Party alter or abandon the measure or conduct so as to be in compliance with that provision.

(c) Panel reports shall be adopted by the Charter Conference. In order to provide sufficient time for the Charter Conference to consider panel reports, a report shall not be adopted by the Charter Conference until at least 30 days after it has been provided to all Contracting Parties by the Secretariat. Contracting Parties having objections to a panel report shall give written reasons for their objections to the Secretariat at least 10 days prior to the date on which the report is to be considered for adoption by the Charter Conference, and the Secretariat shall promptly provide them to all Contracting Parties. The disputing Contracting Parties and Contracting Parties which notified their interest in accordance with subparagraph (2)(b) shall have the right to participate fully in the consideration of the panel report on that dispute by the Charter Conference, and their views shall be fully recorded.

(d) In order to ensure effective resolution of disputes to the benefit of all Contracting Parties, prompt compliance with rulings and recommendations of a final panel report that has been adopted by the Charter Conference is essential. A Contracting Party which is subject to a ruling or recommendation of a final panel report that has been adopted by the Charter Conference shall inform the Charter Conference of its intentions regarding compliance with such ruling or recommendation. In the event that immediate compliance is impracticable, the Contracting Party concerned shall explain its reasons for non-compliance to the Charter Conference and, in light of this explanation, shall have a reasonable period of time to effect compliance. The aim of dispute resolution is the modification or removal of inconsistent measures.

(5) (a) Where a Contracting Party has failed within a reasonable period of time to comply with a ruling or recommendation of a final panel report that has been adopted by the Charter Conference, a Contracting Party to the dispute injured by such non-compliance may deliver to the non-complying Contracting Party a written request that the non-complying Contracting Party enter into negotiations with a view to agreeing upon mutually acceptable compensation. If so requested the non-complying Contracting Party shall promptly enter into such negotiations.

(b) If the non-complying Contracting Party refuses to negotiate, or if the Contracting Parties have not reached agreement within 30 days after delivery of the request for negotiations, the injured Contracting Party may make a written request for authorization of the Charter Conference to suspend obligations owed by it to the non-complying Contracting Party under Article 5 or 29.

(c) The Charter Conference may authorize the injured Contracting Party to suspend such of its obligations to the non-complying Contracting Party, under provisions of Article 5 or 29 or under provisions of the GATT or Related Instruments that apply under Article 29, as the injured Contracting Party considers equivalent in the circumstances.

(d) The suspension of obligations shall be temporary and shall be applied only until such time as the measure found to be inconsistent with Article 5 or 29 has been removed, or until a mutually satisfactory solution is reached.

(6) (a) Before suspending such obligations the injured Contracting Party shall inform the non-complying Contracting Party of the nature and level of its proposed suspension. If the non-complying Contracting Party delivers to the Secretary-General a written objection to the level of suspension of obligations proposed by the injured Contracting Party, the objection shall be referred to arbitration as provided below. The proposed suspension of obligations shall be stayed until the arbitration has been completed and the determination of the arbitral panel has become final and binding in accordance with subparagraph (e).

(b) The Secretary-General shall establish an arbitral panel in accordance with subparagraphs (2)(d) to (f), which if practicable shall be the same panel which made the ruling or recommendation referred to in subparagraph (4)(d), to examine the level of obligations that the injured Contracting Party proposes to suspend. Unless the Charter Conference decides otherwise the rules of procedure for panel proceedings shall be adopted in accordance with subparagraph (3)(a).

(c) The arbitral panel shall determine whether the level of obligations proposed to be suspended by the injured Contracting Party is excessive in relation to the injury it experienced, and if so, to what extent. It shall not review the nature of the obligations suspended, except insofar as this is inseparable from the determination of the level of suspended obligations.

(d) The arbitral panel shall deliver its written determination to the injured and the non-complying Contracting Parties and to the Secretariat within 60 days of the establishment of the panel or within such other period as may be agreed by the injured and the non-complying Contracting Parties. The Secretariat shall present the determination to the Charter Conference at the earliest practicable opportunity, and no later than the meeting of the Charter Conference following receipt of the determination.

(e) The determination of the arbitral panel shall become final and binding 30 days after the date of its presentation to the Charter Conference, and any level of suspension of benefits allowed thereby may thereupon be put into effect by the injured Contracting Party in such manner as that Contracting Party considers equivalent in the circumstances, unless prior to the expiration of the 30 days period the Charter Conference decides otherwise.

(f) In suspending any obligations to a non-complying Contracting Party, an injured Contracting Party shall make every effort not to affect adversely the trade of any other Contracting Party.

(7) Each Contracting Party may designate two individuals who shall, in the case of Contracting Parties which are also party to the GATT, if they are willing and able to serve as panellists under this Annex, be panellists currently nominated for the purpose of GATT dispute panels. The Secretary-General may also designate, with the approval of the Charter Conference, not more than ten individuals, who are willing and able to serve as panellists for purposes of dispute resolution in accordance with paragraphs (2) to (4). The Charter Conference may in addition decide to designate for the same purposes up to 20 individuals, who serve on dispute settlement rosters of other international bodies, who are willing and able to serve as panellists. The names of all of the individuals so designated shall constitute the dispute settlement roster. Individuals shall be designated strictly on the basis of objectivity, reliability and sound judgement and, to the greatest extent possible, shall have expertise in international trade and energy matters, in particular as relates to provisions applicable under Article 29. In fulfilling any function under this Annex, designees shall not be affiliated with or take instructions from any Contracting Party. Designees shall serve for renewable terms of five years and until their successors have been designated. A designee whose term expires shall continue to fulfil any function for which that individual has been chosen under this Annex. In the case of death, resignation or incapacity of a designee, the Contracting Party or the Secretry-General, whichever designated said designee, shall have the right to designate another individual to serve for the remainder of that designee's term, the designation by the Secretary-General being subject to approval of the Charter Conference.

(8) Notwithstanding the provisions contained in this Annex, Contracting Parties are encouraged to consult throughout the dispute resolution proceeding with a view to settling their dispute.

(9) The Charter Conference may appoint or designate other bodies or fora to perform any of the functions delegated in this Annex to the Secretariat and the Secretary-General.

ANNEX B FORMULA FOR ALLOCATING CHARTER COSTS (In accordance with Article 37(3))

(1) Contributions payable by Contracting Parties shall be determined by the Secretariat annually on the basis of their percentage contributions required under the latest available United Nations Regular Budget Scale of Assessment (supplemented by information on theoretical contributions for any Contracting Parties which are not UN members).

(2) The contributions shall be adjusted as necessary to ensure that the total of all Contracting Parties' contributions is 100%.

ANNEX PA LIST OF SIGNATORIES WHICH DO NOT ACCEPT THE PROVISIONAL APPLICATION OBLIGATION OF ARTICLE 45(3)(b)
(In accordance with Article 45(3)(c))

1. The Czech Republic
2. Germany
3. Hungary
4. Lithuania
5. Poland
6. Slovakia

ANNEX T CONTRACTING PARTIES' TRANSITIONAL MEASURES
(In accordance with Article 32(1))

List of Contracting Parties entitled to transitional arrangements

Albania	Latvia
Armenia	Lithuania
Azerbaijan	Moldova
Belarus	Poland
Bulgaria	Romania
Croatia	The Russian Federation
The Czech Republic	Slovakia
Estonia	Slovenia
Georgia	Tajikistan
Hungary	Turkmenistan
Kazakhstan	Ukraine
Kyrgyzstan	Uzbekistan

List of provisions subject to transitional arrangements

Provision	Provision
Article 6(2)	Article 10(7)
Article 6(5)	Article 14(1)(d)
Article 7(4)	Article 20(3)
Article 9(1)	Article 22(3)

Article 6(2)

"Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector."

COUNTRY: ALBANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There is no law on protection of competition in Albania. The law No 7746 of 28 July 1993 on Hydrocarbons and the law No 7796 of 17 February 1994 on Minerals do not include such provisions. There is no law on electricity which is in the stage of preparation. This law is planned to be submitted to the Parliament by the end of 1996. In these laws Albania intends to include provisions on anti-competitive conduct.

PHASE-OUT

1 January 1998.

COUNTRY: ARMENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

At present a state monopoly exists in Armenia in most energy sectors. There is no law on protection of competition, thus the rules of competition are not yet being implemented. There are no laws on energy. The draft laws on energy are planned to be submitted to the Parliament in 1994. The laws are envisaged to include provisions on anti-competitive behaviour, which would be harmonized with the EC legislation on competition.

PHASE-OUT

31 December 1997.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The anti-monopoly legislation is at the stage of elaboration .

PHASE OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Laws on demonopolization are at present at the stage of elaboration in Georgia and that is why the State has so far the monopoly for practically all energy sources and energy resources, which restricts the possibility of competition in the energy and fuel complex.

PHASE-OUT

1 January 1999.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Development of Competition and Restriction of Monopolistic Activities (No 656 of 11 June 1991) has been adopted, but is of a general nature. It is necessary to develop the legislation further, in particular by means of adopting relevant amendments or adopting a new law.

PHASE-OUT

1 January 1998.

COUNTRY: KYRGYZSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Anti-monopoly Policies has already been adopted. The transitional period is needed to adapt provisions of this law to the energy sector which is now strictly regulated by the state.

PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Restriction of Monopolistic Activities and Development of Competition of 29 January 1992 provides an organizational and legal basis for the development of competition, and of measures to prevent, limit and restrict monopolistic activities; it is oriented towards implementing market economy conditions. This law, however, does not provide for concrete measures of anti-competitive conduct in the energy sector, nor does it cover completely the requirements of Article 6.

In 1995 drafts of a law on Competition and a State Programme of Demonopolization of the Economy will be submitted to the Parliament. The draft law on Energy which will be also submitted to the Parliament in 1995 will cover issues on demonopolization and development of competition in the energy sector.

PHASE-OUT

1 January 1998.

COUNTRY: ROMANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The rules of competition are not yet implemented in Romania. The draft law on Protection of Competition has been submitted to the Parliament and is scheduled to be adopted during 1994.

The draft contains provisions with respect to anti-competitive behaviour, harmonized with the EC's law on Competition.

PHASE OUT

31 December 1996.

COUNTRY: THE RUSSIAN FEDERATION

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

The Federation.

DESCRIPTION

A comprehensive framework of anti-monopoly legislation has been created in the Russian Federation but other legal and organizational measures to prevent, limit or suppress monopolistic activities and unfair competition will have to be adopted and in particular in the energy sector.

PHASE-OUT

1 July 2001.

COUNTRY: SLOVENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Law on Protection of Competition adopted in 1993 and published in Official Journal No 18/93 treats anti-competitive conduct generally. The existing law also provides for conditions for the establishment of competition authorities. At present the main competition authority is the Office of Protection of Competition in the Ministry of Economic Relations and Development. With regard to importance of energy sector a separate law in this respect is foreseen and thus more time for full compliance is needed.

PHASE-OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In 1993 Tajikistan passed the law on Demonopolization and Competition. However, due to the difficult economic situation in Tajikistan, the jurisdiction of the law has been temporarily suspended.

PHASE-OUT

31 December 1997.

COUNTRY: TURKMENISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Under the Ruling of the President of Turkmenistan No 1532 of 21 October 1993 the Committee on Restricting Monopolistic Activities has been established and is acting now, the function of which is to protect enterprises and other entities from monopoly conduct and practices and to promote the formation of market principles on the basis of the development of competition and entrepreneurship.

Further development of legislation and regulations is needed which would regulate anti-monopoly conduct of enterprises in the Economic Activity in the Energy Sector.

PHASE-OUT

1 July 2001.

COUNTRY: UZBEKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article 1, paragraph 3) does not extend to the activities of enterprises in the energy sector.

PHASE-OUT

1 July 2001.

Article 6(5)

"If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti-competitive conduct that is the subject of the notification and shall include an offer of such further information and co-operation as that Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcementaction with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development."

COUNTRY: ALBANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Albania there are no established institutions to enforce the competition rules. Such institutions will be provided for in the law on the Protection of Competition which is planned to be finalized in 1996.

PHASE-OUT

1 January 1999.

COUNTRY: ARMENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Institutions to enforce the provisions of this paragraph have not been established in Armenia.

The laws on Energy and Protection of Competition are planned to include provisions to establish such institutions.

PHASE-OUT

31 December 1997.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.

PHASE-OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Laws on demonopolization are at present at the stage of elaboration in Georgia and that is why there are no competition authorities established yet.

PHASE-OUT

1 January 1999.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

An Anti-monopoly Committee has been established in Kazakhstan, but its activity needs improvement, both from legislative and organizational points of view, in order to elaborate an effective mechanism handling the complaints on anti-competitive conduct.

PHASE-OUT

1 January 1998.

COUNTRY: KYRGYZSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There is no mechanism in Kyrgyzstan to control the anti-competitive conduct and the relevant legislation. It is necessary to establish relevant anti-monopoly authorities.

PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Ministry of Economy is responsible for the control of competitive conduct in Moldova. Relevant amendments have been made to the law on Breach of Administrative Rules, which envisage some penalties for violating rules of competition by monopoly enterprises.

The draft law on Competition which is now at the stage of elaboration will have provisions on the enforcement of competition rules.

PHASE-OUT

1 January 1998.

COUNTRY: ROMANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Institutions to enforce the provisions of this paragraph have not been established in Romania.

The Institutions charged with the enforcement of competition rules are provided for in the draft law on Protection of Competition which is scheduled to be adopted during 1994.

The draft also provides a period of nine months for enforcement, starting with the date of its publication.

According to the Europe Agreement establishing an association between Romania and the European Communities, Romania was granted a period of five years to implement competition rules.

PHASE OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Tajikistan has adopted laws on Demonopolization and Competition, but institutions to enforce competition rules are in the stage of development.

PHASE-OUT

31 December 1997.

COUNTRY: UZBEKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article 1, paragraph 3) does not extend to the activities of the enterprises in the energy sector.

PHASE-OUT

1 July 2001.

Article 7(4)

"In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1)."

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to adopt a set of laws on energy, including licensing procedures regulating transit. During a transition period it is envisaged to build and modernize power transmission lines, as well as generating capacities with the aim of bringing their technical level to the world requirements and adjusting to conditions of a market economy.

PHASE OUT

31 December 1999.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Laws on energy, land and other subjects are being worked out at present, and until their final adoption, uncertainty remains as to the conditions for establishing new transport capacities for energy carriers in the territory of Belarus.

PHASE-OUT

31 December 1998.

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Bulgaria has no laws regulating Transit of Energy Materials and Products. An overall restructuring is ongoing in the energy sector, including development of institutional framework, legislation and regulation.

PHASE-OUT

The transitional period of 7 years is necessary to bring the legislation concerning the Transit of Energy Materials and Products in full compliance with this provision.

1 July 2001.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to prepare a set of laws on the matter. At present there are substantially different conditions for the transport and transit of various energy sources in Georgia (electric power, natural gas, oil products, coal).

PHASE-OUT

1 January 1999.

COUNTRY: HUNGARY

SECTOR

Electricity industry.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the current legislation establishment and operation of high-voltage transmission lines is a state monopoly.

The creation of the new legal and regulatory framework for establishment, operation and ownership of high-voltage transmission lines is under preparation.

The Ministry of Industry and Trade has already taken the initiative to put forward a new Act on Electricity Power, that will have its impact also on the Civil Code and on the Act on Concession. Compliance can be achieved after entering in force of the new law on Electricity and related regulatory decrees.

PHASE-OUT

31 December 1996.

COUNTRY: POLAND

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Polish law on Energy, being in the final stage of coordination, stipulates for creating new legal regulations similar to those applied by free market countries (licenses to generate, transmit, distribute and trade in energy carriers). Until it is adopted by the Parliament a temporary suspension of obligations under this paragraph is required.

PHASE-OUT

31 December 1995.

Article 9(1)

"The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable."

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of preparation.

PHASE-OUT

1 January 1997.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The bill on Foreign Investments is at the stage of authorization approval with the aim to adopt it by the Parliament in autumn 1994.

PHASE-OUT

1 July 2001.

COUNTRY: KYRGYZSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is currently under preparation.

PHASE-OUT

1 July 2001.

Article 10(7) Specific Measures

"Each Contracting Party shall accord to Investments in its Area of Investors of another Contracting Party, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable."

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign persons may not acquire property rights over land. A company with more than fifty per cent of foreign person's share may not acquire property right over agricultural land;

Foreigners and foreign legal persons may not aquire property rights over land except by way of inheritance according to the law. In this case they have to make it over;

A foreign person may aquire property rights over buildings, but without property rights over the land;

Foreign persons or companies with foreign controlling participation must obtain a permit before performing the following activities:

— exploration, development and extraction of natural resources from the territorial sea, continental shelf or exclusive economic zone;

— acquisition of real estate in geographic regions designated by the Council of Ministers.

— The permits are issued by the Council of Ministers or by a body authorized by the Council of Ministers.

PHASE-OUT

1 July 2001.

Article 14(1)(d)

"Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;"

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign nationals employed by companies with more than 50 per cent of foreign participation, or by a foreign person registered as sole trader or a branch or a representative office of a foreign company in Bulgaria, receiving their salary in Bulgarian leva, may purchase foreign currency not exeeding 70 per cent of their salary, including social security payments.

PHASE-OUT

1 July 2001.

COUNTRY: HUNGARY

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the Act on Investments of Foreigners in Hungary, article 33, foreign top managers, executive managers, members of the Supervisory Board and foreign employees may transfer their income up to 50 per cent of their aftertax earnings derived from the company of their employment through the bank of their company.

PHASE-OUT

The phase out of this particular restriction depends on the progress Hungary is able to make in the implementation of the foreign exchange liberalization programme whose final target is the full convertibility of the Forint. This restriction does not create barriers to foreign investors. Phase-out is based on stipulations of Article 32.

1 July 2001.

Article 20(3)

"Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request."

COUNTRY: ARMENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Armenia there are no official enquiry points yet to which requests for information about the relevant laws and other regulations could be addressed. There is no information centre either. There is a plan to establish such a centre in 1994-1995. Technical assistance is required.

PHASE-OUT

31 December 1996.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There are no official enquiry points so far in Azerbaijan to which requests for information about relevant laws and regulations could be addressed. At present such information is concentrated in various organizations.

PHASE OUT

31 December 1997.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Official enquiry offices which could give information on laws, regulations, judicial decisions and administrative rulings do not exist yet in Belarus. As far as the judicial decisions and administrative rulings are concerned there is no practice of their publishing.

PHASE-OUT

31 December 1998.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The process of establishing enquiry points has begun. As far as the judicial decisions and administrative rulings are concerned they are not published in Kazakhstan (except for some decisions made by the Supreme Court), because they are not considered to be sources of law. To change the existing practice will require a long transitional period.

PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to establish enquiry points.

PHASE-OUT

31 December 1995.

COUNTRY: THE RUSSIAN FEDERATION

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

The Federation and the Republics constituting Federation.

DESCRIPTION

No official enquiry points exist in the Russian Federation as of now to which requests for information about relevant laws and other regulation acts could be addressed. As far as the judicial decisions and administrative rulings are concerned they are not considered to be sources of law.

PHASE-OUT

31 December 2000.

COUNTRY: SLOVENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Slovenia there are no official enquiry points yet to which requests for information about relevant laws and other regulatory acts could be addressed. At present such information is available in various ministries. The Law on Foreign Investments which is under preparation foresees establishment of such an enquiry point.

PHASE-OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There are no enquiry points yet in Tajikistan to which requests for information about relevant laws and other regulations could be addressed. It is only a question of having available funding.

PHASE-OUT

31 December 1997.

COUNTRY: UKRAINE

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Improvement of the present transparency of laws up to the level of international practice is required. Ukraine will have to establish enquiry points providing information about laws, regulations, judicial decisions and administrative rulings and standards of general application.

PHASE-OUT

1 January 1998.

ARTICLE 22(3)

"Each Contracting Party shall ensure that if it establishes or maintains a state entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party's obligations under this Treaty".

COUNTRY: THE CZECH REPUBLIC

SECTOR

Uranium and nuclear industries.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In order to deplete uranium ore reserves that are stocked by Administration of State Material Reserves, no imports of uranium ore and concentrates, including uranium fuel bundles containing uranium of non-Czech origin, will be licensed.

PHASE-OUT

1 July 2001.

DECISIONS WITH RESPECT TO THE ENERGY CHARTER TREATY (Annex 2 to the Final Act of the European Energy Charter Conference)

The European Energy Charter Conference has adopted the following Decisions:

1. With respect to the Treaty as a whole

In the event of a conflict between the treaty concerning Spitsbergen of 9 February 1920 (the Svalbard Treaty) and the Energy Charter Treaty, the treaty concerning Spitsbergen shall prevail to the extent of the conflict, without prejudice to the positions of the Contracting Parties in respect of the Svalbard Treaty. In the event of such conflict or a dispute as to whether there is such conflict or as to its extent, Article 16 and Part V of the Energy Charter Treaty shall not apply.

2. With respect to Article 10(7)

The Russian Federation may require that companies with foreign participation obtain legislative approval for the leasing of federally-owned property, provided that the Russian Federation shall ensure without exception that this process is not applied in a manner which discriminates among Investments of Investors of other Contracting Parties.

3. With respect to Article 14

(1) The term "freedom of transfer" in Article 14(1) does not preclude a Contracting Party (hereinafter referred to as the "Limiting Party") from applying restrictions on movement of capital by its own Investors, provided that:

(a) such restrictions shall not impair the rights granted under Article 14(1) to Investors of other Contracting Parties with respect to their Investments;

(b) such restrictions do not affect Current Transactions; and

(c) the Contracting Party ensures that Investments in its Area of the Investors of all other Contracting Parties are accorded, with respect to transfers, treatment no less favourable than that which it accords to Investments of Investors of any other Contracting Party or of any third state, whichever is the most favourable.

(2) This Decision shall be subject to examination by the Charter Conference five years after entry into force of the Treaty, but not later than the date envisaged in Article 32(3).

(3) No Contracting Party shall be eligible to apply such restrictions unless it is a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics, which has notified the provisional Secretariat in writing no later than 1 July 1995 that it elects to be eligible to apply restrictions in accordance with this Decision.

(4) For the avoidance of doubt, nothing in this Decision shall derogate, as concerns Article 16, from the rights hereunder of a Contracting Party, its Investors or their Investments, or from the obligations of a Contracting Party.

(5) For the purposes of this Decision:

"Current Transactions" are current payments connected with the movement of goods, services or persons that are made in accordance with normal international practice, and do not include arrangements which materially constitute a combination of a current payment and a capital transaction, such as deferrals of payments and advances which is meant to circumvent respective legislation of the Limiting Party in the field.

4. With respect to Article 14(2)

Without prejudice to the requirements of Article 14 and its other international obligations, Romania shall endeavour during the transition to full convertibility of its national currency to take appropriate steps to improve the efficiency of its procedures for the transfers of Investment Returns and shall in any case guarantee such transfers in a Freely Convertible Currency without restriction or a delay exceeding six months. Romania shall ensure that Investments in its Area of the Investors of all other Contracting Parties are accorded, with respect to transfers, treatment no less favourable than that which it accords to Investments of Investors of any other Contracting Party or of any third state, whichever is the most favourable.

5. With respect to Articles 24(4)(a) and 25

An Investment of an Investor referred to in Article 1(7)(a)(ii), of a Contracting Party which is not party to an EIA or a member of a free-trade area or a customs union, shall be entitled to treatment accorded under such EIA, free-trade area or customs union, provided that the Investment:

(a) has its registered office, central administration or principal place of business in the Area of a party to that EIA or member of that free-trade area or customs union; or

(b) in case it only has its registered office in that Area, has an effective and continuous link with the economy of one of the parties to that EIA or member of that free-trade area or customs union.

ENERGY CHARTER PROTOCOL ON ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS
(Annex 3 to the Final Act of the European Energy Charter Conference)

PREAMBLE

THE CONTRACTING PARTIES to this Protocol,

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter, signed at The Hague on 17 December 1991; and in particular to the declarations therein that co-operation is necessary in the field of energy efficiency and related environmental protection;

Having regard also to the Energy Charter Treaty, opened for signature from 17 December 1994 to 16 June 1995;

Mindful of the work undertaken by international organizations and fora in the field of energy efficiency and environmental aspects of the energy cycle;

Aware of the improvements in supply security, and of the significant economic and environmental gains, which result from the implementation of cost-effective energy efficiency measures; and aware of their importance for restructuring economies and improving living standards;

Recognizing that improvements in energy efficiency reduce negative environmental consequences of the energy cycle including global warming and acidification;

Convinced that energy prices should reflect as far as possible a competitive market, ensuring market-oriented price formation, including fuller reflection of environmental costs and benefits, and recognizing that such price formation is vital to progress in energy efficiency and associated environmental protection;

Appreciating the vital role of the private sector including small and medium-sized enterprises in promoting and implementing energy efficiency measures, and intent on ensuring a favourable institutional framework for economically viable investment in energy efficiency;

Recognizing that commercial forms of co-operation may need to be complemented by intergovernmental co-operation, particularly in the area of energy policy formulation and analysis as well as in other areas which are essential to the enhancement of energy efficiency but not suitable for private funding; and

Desiring to undertake co-operative and coordinated action in the field of energy efficiency and related environmental protection and to adopt a Protocol providing a framework for using energy as economically and efficiently as possible:

HAVE AGREED AS FOLLOWS:

PART I INTRODUCTION

ARTICLE 1 SCOPE AND OBJECTIVES OF THE PROTOCOL

(1) This Protocol defines policy principles for the promotion of energy efficiency as a considerable source of energy and for consequently reducing adverse Environmental Impacts of energy systems. It furthermore provides guidance on the development of energy efficiency programmes, indicates areas of co-operation and provides a framework for the development of co-operative and coordinated action. Such action may include the prospecting for, exploration, production, conversion, storage, transport, distribution, and consumption of energy, and may relate to any economic sector.

(2) The objectives of this Protocol are:

(a) the promotion of energy efficiency policies consistent with sustainable development;

(b) the creation of framework conditions which induce producers and consumers to use energy as economically, efficiently and environmentally soundly as possible, particularly through the organization of efficient energy markets and a fuller reflection of environmental costs and benefits; and

(c) the fostering of co-operation in the field of energy efficiency.

ARTICLE 2 DEFINITIONS

As used in this Protocol:

(1) "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Document is considered to be signature of the Charter.

(2) "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Protocol and for which the Protocol is in force.

(3) "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Protocol, including the authority to take decisions binding on them in respect of those matters.

(4) "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts.

(5) "Cost-Effectiveness" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

(6) "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output.

(7) "Environmental Impact" means any effect caused by a given activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

PART II POLICY PRINCIPLES

ARTICLE 3 BASIC PRINCIPLES

Contracting Parties shall be guided by the following principles:

(1) Contracting Parties shall co-operate and, as appropriate, assist each other in developing and implementing energy efficiency policies, laws and regulations.

(2) Contracting Parties shall establish energy efficiency policies and appropriate legal and regulatory frameworks which promote, inter alia:

(a) efficient functioning of market mechanisms including market-oriented price formation and a fuller reflection of environmental costs and benefits;

(b) reduction of barriers to energy efficiency, thus stimulating investments;

(c) mechanisms for financing energy efficiency initiatives;

(d) education and awareness;

(e) dissemination and transfer of technologies;

(f) transparency of legal and regulatory frameworks.

(3) Contracting Parties shall strive to achieve the full benefit of energy efficiency throughout the Energy Cycle. To this end they shall, to the best of their competence, formulate and implement energy efficiency policies and co-operative or coordinated actions based on Cost-Effectiveness and economic efficiency, taking due account of environmental aspects.

(4) Energy efficiency policies shall include both short-term measures for the adjustment of previous practices and long-term measures to improve energy efficiency throughout the Energy Cycle.

(5) When co-operating to achieve the objectives of this Protocol, Contracting Parties shall take into account the differences in adverse effects and abatement costs between Contracting Parties.

(6) Contracting Parties recognize the vital role of the private sector. They shall encourage action by energy utilities, responsible authorities and specialised agencies, and close co-operation between industry and administrations.

(7) Co-operative or coordinated action shall take into account relevant principles adopted in international agreements, aimed at protection and improvement of the environment, to which Contracting Parties are parties.

(8) Contracting Parties shall take full advantage of the work and expertise of competent international or other bodies and shall take care to avoid duplication.

ARTICLE 4 DIVISION OF RESPONSIBILITY AND COORDINATION

Each Contracting Party shall strive to ensure that energy efficiency policies are coordinated among all of its responsible authorities.

ARTICLE 5 STRATEGIES AND POLICY AIMS

Contracting Parties shall formulate strategies and policy aims for Improving Energy Efficiency and thereby reducing Environmental Impacts of the Energy Cycle as appropriate in relation to their own specific energy conditions. These strategies and policy aims shall be transparent to all interested parties.

ARTICLE 6 FINANCING AND FINANCIAL INCENTIVES

(1) Contracting Parties shall encourage the implementation of new approaches and methods for financing energy efficiency and energy-related environmental protection investments, such as joint venture arrangements between energy users and external investors (hereinafter referred to as "Third Party Financing").

(2) Contracting Parties shall endeavour to take advantage of and promote access to private capital markets and existing international financing institutions in order to facilitate investments in Improving Energy Efficiency and in environmental protection related to energy efficiency.

(3) Contracting Parties may, subject to the provisions of the Energy Charter Treaty and to their other international legal obligations, provide fiscal or financial incentives to energy users in order to facilitate market penetration of energy efficiency technologies, products and services. They shall strive to do so in a manner that both ensures transparency and minimizes the distortion of international markets.

ARTICLE 7 PROMOTION OF ENERGY EFFICIENT TECHNOLOGY

(1) Consistent with the provisions of the Energy Charter Treaty, Contracting Parties shall encourage commercial trade and co-operation in energy efficient and environmentally sound technologies, energy-related services and management practices.

(2) Contracting Parties shall promote the use of these technologies, services and management practices throughout the Energy Cycle.

ARTICLE 8 DOMESTIC PROGRAMMES

(1) In order to achieve the policy aims formulated according to Article 5, each Contracting Party shall develop, implement and regularly update energy efficiency programmes best suited to its circumstances.

(2) These programmes may include activities such as the:

(a) development of long-term energy demand and supply scenarios to guide decision-making;

(b) assessment of the energy, environmental and economic impact of actions taken;

(c) definition of standards designed to improve the efficiency of energy using equipment, and efforts to harmonize these internationally to avoid trade distortions;

(d) development and encouragement of private initiative and industrial co-operation, including joint ventures;

(e) promotion of the use of the most energy efficient technologies that are economically viable and environmentally sound;

(f) encouragement of innovative approaches for investments in energy efficiency improvements, such as Third Party Financing and co-financing;

(g) development of appropriate energy balances and data bases, for example with data on energy demand at a sufficiently detailed level and on technologies for Improving Energy Efficiency;

(h) promotion of the creation of advisory and consultancy services which may be operated by public or private industry or utilities and which provide information about energy efficiency programmes and technologies, and assist consumers and enterprises;

(i) support and promotion of cogeneration and of measures to increase the efficiency of district heat production and distribution systems to buildings and industry;

(j) establishment of specialized energy efficiency bodies at appropriate levels, that are sufficiently funded and staffed to develop and implement policies.

(3) In implementing their energy efficiency programmes, Contracting Parties shall ensure that adequate institutional and legal infrastructures exist.

PART III INTERNATIONAL CO-OPERATION

ARTICLE 9 AREAS OF CO-OPERATION

The co-operation between Contracting Parties may take any appropriate form. Areas of possible co-operation are listed in the Annex.

PART IV ADMINISTRATIVE AND LEGAL ARRANGEMENTS

ARTICLE 10 ROLE OF THE CHARTER CONFERENCE

(1) All decisions made by the Charter Conference in accordance with this Protocol shall be made by only those Contracting Parties to the Energy Charter Treaty who are Contracting Parties to this Protocol.

(2) The Charter Conference shall endeavour to adopt, within 180 days after the entry into force of this Protocol, procedures for keeping under review and facilitating the implementation of its provisions, including reporting requirements, as well as for identifying areas of co-operation in accordance with Article 9.

ARTICLE 11 SECRETARIAT AND FINANCING

(1) The Secretariat established under Article 35 of the Energy Charter Treaty shall provide the Charter Conference with all necessary assistance for the performance of its duties under this Protocol and provide such other services in support of the Protocol as may be required from time to time, subject to approval by the Charter Conference.

(2) The costs of the Secretariat and Charter Conference arising from this Protocol shall be met by the Contracting Parties to this Protocol according to their capacity to pay, determined according to the formula specified in Annex B to the Energy Charter Treaty.

ARTICLE 12 VOTING

(1) Unanimity of Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions to:

(a) adopt amendments to this Protocol; and

(b) approve accessions to this Protocol under Article 16.

Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Protocol. If agreement cannot be reached by consensus, decisions on non-budgetary matters shall be taken by a three-fourths majority of Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

Decisions on budgetary matters shall be taken by a qualified majority of Contracting Parties whose assessed contributions under Article 11(2) represent, in combination, at least three-fourths of the total assessed contributions.

(2) For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties to this Protocol present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

(3) Except as provided in paragraph (1) in relation to budgetary matters, no decision referred to in this Article shall be valid unless it has the support of a simple majority of Contracting Parties.

(4) A Regional Economic Integration Organization shall, when voting, have a number of votes equal to the number of its member states which are Contracting Parties to this Protocol; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

(5) In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Protocol, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

ARTICLE 13 RELATION TO THE ENERGY CHARTER TREATY

(1) In the event of inconsistency between the provisions of this Protocol and the provisions of the Energy Charter Treaty, the provisions of the Energy Charter Treaty shall, to the extent of the inconsistency, prevail.

(2) Article 10(1) and Article 12(1) to (3) shall not apply to votes in the Charter Conference on amendments to this Protocol which assign duties or functions to the Charter Conference or the Secretariat, the establishment of which is provided for in the Energy Charter Treaty.

PART V FINAL PROVISONS

ARTICLE 14 SIGNATURE

This Protocol shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations whose representatives have signed the Charter and the Energy Charter Treaty.

ARTICLE 15 RATIFICATION, ACCEPTANCE OR APPROVAL

This Protocol shall be subject to ratification, acceptance or approval by signatories. Instruments of ratification, acceptance or approval shall be deposited with the Depository.

ARTICLE 16 ACCESSION

This Protocol shall be open for accession, from the date on which the Protocol is closed for signature, by states and Regional Economic Integration Organizations which have signed the Charter and are Contracting Parties to the Energy Charter Treaty, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depository.

ARTICLE 17 AMENDMENTS

(1) Any Contracting Party may propose amendments to this Protocol.

(2) The text of any proposed amendment to this Protocol shall be communicated to Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

(3) Amendments to this Protocol, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depository which shall submit them to all Contracting Parties for ratification, acceptance or approval.

(4) Instruments of ratification, acceptance or approval of amendments to this Protocol shall be deposited with the Depository. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the thirtieth day after deposit with the Depository of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

ARTICLE 18 ENTRY INTO FORCE

(1) This Protocol shall enter into force on the thirtieth day after the date of deposit of the fifteenth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter and a Contracting Party to the Energy Charter Treaty or on the same date as the Energy Charter Treaty enters into force, whichever is later.

(2) For each state or Regional Economic Integration Organization for which the Energy Charter Treaty has entered into force and which ratifies, accepts, or approves this Protocol or accedes thereto after the Protocol has entered into force in accordance with paragraph (1), the Protocol shall enter into force on the thirtieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

(3) For the purposes of paragraph (1), any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member states of such Organization.

ARTICLE 19 RESERVATIONS

No reservations may be made to this Protocol.

ARTICLE 20 WITHDRAWAL

(1) At any time after this Protocol has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depository of its withdrawal from the Protocol.

(2) Any Contracting Party which withdraws from the Energy Charter Treaty shall be considered as also having withdrawn from this Protocol.

(3) The effective date of withdrawal under paragraph (1) shall be ninety days after receipt of notification by the Depository. The effective date of withdrawal under paragraph (2) shall be the same as the effective date of withdrawal from the Energy Charter Treaty.

ARTICLE 21 DEPOSITORY

The Government of the Portuguese Republic shall be the Depository of this Protocol.

ARTICLE 22 AUTHENTIC TEXTS

In witness whereof the undersigned, being duly authorized to that effect, have signed this Protocol in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic.

Done at Lisbon on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

ANNEX

ILLUSTRATIVE AND NON-EXHAUSTIVE LIST OF POSSIBLE AREAS OF COOPERATION PURSUANT TO ARTICLE 9

Development of energy efficiency programmes, including identifying energy efficiency barriers and potentials, and the development of energy labelling and efficiency standards;

Assessment of the Environmental Impacts of the Energy Cycle;

Development of economic, legislative and regulatory measures;

Technology transfer, technical assistance and industrial joint ventures subject to international property rights regimes and other applicable international agreements;

Research and development;

Education, training, information and statistics;

Identification and assessment of measures such as fiscal or other market-based instruments, including tradeable permits to take account of external, notably environmental, costs and benefits.

Energy analysis and policy formulation:

- assessment of energy efficiency potentials;
- energy demand analysis and statistics;
- development of legislative and regulatory measures;
- integrated resource planning and demand side management;
- Environmental Impact assessment, including major energy projects.

Evaluation of economic instruments for Improving Energy Efficiency and environmental objectives.

Energy efficiency analysis in refining, conversion, transport and distribution of hydro-carbons.

Improving Energy Efficiency in power generation and transmission:

- cogeneration;
- plant component (boilers, turbines, generators, etc);
- network integration.

Improving Energy Efficiency in the building sector:

- thermal insulation standards, passive solar and ventilation;
- space heating and air conditioning systems;
- high efficiency low NOx burners;
- metering technologies and individual metering;
- domestic appliances and lighting.

Municipalities and local community services:

- district heating systems;
- efficient gas distribution systems;
- energy planning technologies;
- twinning of towns or of other relevant territorial entities;
- energy management in cities and in public buildings;
- waste management and energy recovery of waste.

Improving Energy Efficiency in the industrial sector:

- joint ventures;
- energy cascading, cogeneration and waste heat recovery;
- energy audits.

Improving Energy Efficiency in the transport sector:

- motor vehicle performance standards;
- development of efficient transport infrastructures.

Information:

- awareness creation;
- data bases: access, technical specifications, information systems;
- dissemination, collection and collation of technical information;
- behavioural studies.

Training and education:

- exchanges of energy managers, officials, engineers and students;
- organization of international training courses.

Financing:

- development of legal framework;
- Third Party Financing;
- joint ventures;
- co-financing.

EUROPEAN ENERGY CHARTER

The representatives of the signatories meeting in The Hague on 16 and 17 December 1991,

Having regard to the Charter of Paris for a New Europe, signed in Paris on 21 November 1990 at the summit meeting of the Conference on Security and Co-operation in Europe (CSCE);

Having regard to the document adopted in Bonn on 11 April 1990 by the CSCE Conference on Economic Co-operation in Europe;

Having regard to the declaration of the London Economic Summit adopted on 17 July 1991;

Having regard to the report on the conclusions and recommendations of the CSCE meeting in Sofia on 3 November 1989, on the protection of the environment, as well as its follow-up;

Having regard to the Agreement establishing the European Bank for Reconstruction and Development signed in Paris on 29 May 1990;

Anxious to give formal expression to this new desire for a European-wide and global co-operation based on mutual respect and confidence;

Resolved to promote a new model for energy co-operation in the long term in Europe and globally within the framework of a market economy and based on mutual assistance and the principle of non-discrimination;

Aware that account must be taken of the problems of reconstruction and restructuring in the countries of Central and Eastern Europe and in the USSR and that it is desirable for the signatories to participate in joint efforts aimed at facilitating and promoting market-oriented reforms and modernisation of energy sectors in these countries;

Certain that taking advantage of the complementary features of energy sectors within Europe will benefit the world economy; persuaded that broader energy co-operation among signatories is essential for economic progress and more generally for social development and a better quality of life;

Convinced of the signatories' common interest in problems of energy supply, safety of industrial plants, particularly nuclear facilities, and environmental protection;

Willing to do more to attain the objectives of security of supply and efficient management and use of resources, and to utilise fully the potential for environmental improvement, in moving towards sustainable development;

Convinced of the essential importance of efficient energy systems in the production, conversion, transport, distribution and use of energy for security of supply and for the protection of the environment;

Recognising State sovereignty and sovereign rights over energy resources;

Assured of support from the European Community, particularly through completion of its internal energy market;

Aware of the obligations under major relevant multilateral agreements, of the wide range of international energy co-operation, and of the extensive activities by existing international organisations in the energy field and willing to take full advantage of the expertise of these organisations in furthering the objectives of the Charter;

Recognising the role of entrepreneurs, operating within a transparent and equitable legal framework, in promoting co-operation under the Charter;

Determined to establish closer, mutually beneficial commercial relations and promote energy investments;

Convinced of the importance of promoting free movement of energy products and of developing an efficient international energy infrastructure in order to facilitate the development of market-based trade in energy;

Aware of the need to promote technological co-operation among signatories;

Affirming that the energy policies of signatories are linked by interests common to all their countries and that they should be implemented in accordance with the principles set out below:

Affirming, finally, their desire to take the consequent action and apply the principles set out below:

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE "EUROPEAN ENERGY CHARTER"

TITLE 1: OBJECTIVES

The signatories are desirous of improving security of energy supply and of maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety and to minimise environmental problems, on an acceptable economic basis.

Within the framework of State sovereignty and sovereign rights over energy resources and in a spirit of political and economic co-operation, they undertake to promote the development of an efficient energy market throughout Europe, and a better functioning global market, in both cases based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns. They are determined to create a climate favourable to the operation of enterprises and to the flow of investments and technologies by implementing market principles in the field of energy.

To this end, and in accordance with these principles, they will take action in the following fields:

1. Development of trade in energy consistent with major relevant multilateral agreements such as GATT, its related instruments, and nuclear non-proliferation obligations and undertakings, which will be achieved by means of:

   — an open and competitive market for energy products, materials, equipment and services;

   — access to energy resources, and exploration and development thereof on a commercial basis;

   — access to local and international markets;

   — removal of technical, administrative and other barriers to trade in energy and associated equipment, technologies and energy-related services;

   — modernisation, renewal and rationalisation by industry of services and installations for the production, conversion, transport, distribution and use of energy;

   — promoting the development and interconnection of energy transport infrastructure;

   — promoting best possible access to capital, particularly through appropriate existing financial institutions;

   — facilitating access to transport infrastructure, for international transit purposes in accordance with the objectives of the Charter expressed in the first paragraph of this Title;

   — access on commercial terms to technologies for the exploration, development and use of energy resources;

2. Co-operation in the energy field, which will entail:

   — co-ordination of energy policies, as necessary for promoting the objectives of the Charter;

   — mutual access to technical and economic data, consistent with proprietary rights;

   — formulation of stable and transparent legal frameworks creating conditions for the development of energy resources;

— co-ordination and, where appropriate, harmonisation of safety principles and guidelines for energy products and their transport, as well as for energy installations, at a high level;

— facilitating the exchange of technology information and know-how in the energy and environment fields, including training activities;

— research, technological development and demonstration projects.

3. Energy efficiency and environmental protection, which will imply:

— creating mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market-based instruments;

— promotion of an energy mix designed to minimise negative environmental consequences in a cost-effective way through:

(i) market-oriented energy prices which more fully reflect environmental costs and benefits;

(ii) efficient and co-ordinated policy measures related to energy;

(iii) use of new and renewable energies and clean technologies;

— achieving and maintaining a high level of nuclear safety and ensuring effective co-operation in this field.

TITLE II: IMPLEMENTATION

In order to attain the objectives set out above, the signatories will, within the framework of State sovereignty and sovereign rights over energy resources, take co-ordinated action to achieve greater coherence of energy policies, which should be based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns.

They underline that practical steps to define energy policies are necessary in order to intensify co-operation in this sector and further stress the importance of regular exchanges of views on action taken, taking full advantage of the experience of existing international organisations and institutions in this field.

The signatories recognise that commercial forms of co-operation may need to be complemented by intergovernmental co-operation, particularly in the area of energy policy formulation and analysis as well as in areas which are essential and not suitable to private capital funding.

They undertake to pursue the objectives of creating a broader European energy market and enhancing the efficient functioning of the global energy market by joint or co-ordinated action under the Charter in the following fields:

— access to and development of energy resources;

— access to markets;

— liberalisation of trade in energy;

— promotion and protection of investments;

— safety principles and guidelines;

— research, technological development, innovation and dissemination;

— energy efficiency and environmental protection;

— education and training.

In implementing this joint or co-ordinated action, they undertake to foster private initiative, to make full use of the potential of enterprises, institutions and all available financial sources, and to facilitate co-operation between such enterprises or institutions from different countries, acting on the basis of market principles.

The signatories will ensure that the international rules on the protection of industrial, commercial and intellectual property are respected.

1. Access to and development of energy resources

Considering that efficient development of energy resources is a sine qua non for attaining the objectives of the Charter, the signatories undertake to facilitate access to and development of resources by the interested operators.

To this end, they will ensure that rules on the exploration, development and acquisition of resources are publicly available and transparent; they recognise the need to formulate such rules wherever this has not yet been done and to take all necessary measures to co-ordinate their actions in this area.

With a view to facilitating the development and diversification of resources, the signatories undertake to avoid imposing discriminatory rules on operators, notably rules governing the ownership of resources, internal operation of companies and taxation.

2. Access to Markets

The signatories will strongly promote access to local and international markets for energy products for the implementation of the objectives of the Charter. Such access to markets should take account of the need to facilitate the operation of market forces, and promote competition.

3. Liberalisation of trade in energy

In order to develop and diversify trade in energy, the signatories undertake progressively to remove the barriers to such trade with each other in energy products, equipment and services in a manner consistent with the provisions of GATT, its related instruments, and nuclear non-proliferation obligations and undertakings.

The signatories recognise that transit of energy products through their territories is essential for the liberalisation of trade in energy products. Transit should take place in economic and environmentally sound conditions.

They stress the importance of the development of commercial international energy transmission networks and their interconnection, with particular reference to electricity and natural gas and with recognition of the relevance of long-term commercial commitments. To this end, they will ensure the compatibility of technical specifications governing the installation and operation of such networks, notably as regards the stability of electricity systems.

4. Promotion and protection of investments

In order to promote the international flow of investments, the signatories will at national level provide for a stable, transparent legal framework for foreign investments, in conformity with the relevant international laws and rules on investment and trade.

They affirm that it is important for the signatory States to negotiate and ratify legally binding agreements on promotion and protection of investments which ensure a high level of legal security and enable the use of investment risk guarantee schemes.

Moreover, the signatories will guarantee the right to repatriate profits or other payments relating to an investment and to obtain or use the convertible currency needed.

They also recognise the importance of the avoidance of double taxation to foster private investment.

5. Safety principles and guidelines

Consistent with relevant major multilateral agreements, the signatories will:

— implement safety principles and guidelines, designed to achieve and/or maintain high levels of safety, in particular nuclear safety and the protection of health and the environment;

— develop such common safety principles and guidelines as are appropriate and/or agree to the mutual recognition of their safety principles and guidelines.

6. Research, technological development, innovation and dissemination

The signatories undertake to promote exchanges of technology and co-operation on their technological development and innovation activities in the fields of energy production, conversion, transport, distribution and the efficient and clean use of energy, in a manner consistent with nuclear non-proliferation obligations and undertakings.

To this end, they will encourage co-operative efforts on:

— research and development activities;

— pilot or demonstration projects;

— the application of technological innovations;

— the dissemination and exchange of know-how and information on technologies.

7. Energy efficiency and environmental protection

The signatories agree that co-operation is necessary in the field of efficient use of energy and energy-related environmental protection.

This should include:

— ensuring, in a cost-effective manner, consistency between relevant energy policies and environmental agreements and conventions;

— ensuring market-oriented price formation, including a fuller reflection of environmental costs and benefits;

— the use of transparent and equitable market-based instruments designed to achieve energy objectives and reduce environmental problems;

— the creation of framework conditions for the exchange of know-how regarding environmentally sound energy technologies and efficient use of energy;

— the creation of framework conditions for profitable investment in energy efficiency projects.

8. Education and training

The signatories, recognising industry's role in promoting vocational education and training in the energy field, undertake to co-operate in such activities, including:

— professional education;

— occupational training;

— public information in the energy efficiency field.

TITLE III: SPECIFIC AGREEMENTS

The signatories undertake to pursue the objectives and principles of the Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith a Basic Agreement and Protocols.

Areas of co-operation could include:

- horizontal and organisational issues;
- energy efficiency, including environmental protection;
- prospecting, production, transportation and use of oil and oil products and modernisation of refineries;
- prospecting, production and use of natural gas, interconnection of gas networks and transmission via high-pressure gas pipelines;
- all aspects of the nuclear fuel cycle including improvements in safety in that sector;
- modernisation of power stations, interconnection of power networks and transmission of electricity via high-voltage power lines;
- all aspects of the coal cycle, including clean coal technologies;
- development of renewable energy sources;
- transfers of technology and encouragement of innovation;
- co-operation in dealing with the effects of major accidents, or of other events in the energy sector with transfrontier consequences.

The signatories will, in exceptional cases, consider transitional arrangements. They, in particular, take into account the specific circumstances facing some states of Central and Eastern Europe and the USSR as well as their need to adapt their economies to the market system, and accept the possibility of a stage-by-stage transition in those countries for the implementation of those particular provisions of the Charter, Basic Agreement and related Protocols that they are, for objective reasons, unable to implement immediately and in full.

Specific arrangements for coming into full compliance with Charter provisions as elaborated in the Basic Agreement and Protocols will be negotiated by each Party requesting transitional status, and progress towards full compliance will be subject to periodic review.

TITLE IV: FINAL PROVISIONS

The signatories request the Government of The Netherlands, President-in-office of the Council of the European Communities, to transmit to the Secretary-General of the United Nations the text of the European Energy Charter which is not eligible for registration under Article 102 of the Charter of the United Nations.

In adopting the European Energy Charter Ministers or their representatives record that the following understanding has been reached:

The representatives of the Signatories understand that in the context of the European Energy Charter, the principle of non-discrimination means Most—Favoured-Nation Treatment as a minimum standard. National Treatment may be agreed to in provisions of the Basic Agreement and/or Protocols.

The original of this Concluding Document, drawn up in English, French, German, Italian, Russian and Spanish texts, will be transmitted to the Government of the Kingdom of The Netherlands, which will retain it in its archives. Each of the Signatories will receive from the Government of the Kingdom of The Netherlands a true copy of the Concluding Document.

Done at The Hague on the seventeenth day of December in the year one thousand nine hundred and ninety-one.

Amendment (Trade-Related Provisions) to the Energy Charter Treaty, with annexes, and Protocol on Energy Efficiency and Related Environmental Aspects of 17 December 1994, Brussels, 1998

Done at Brussels 24 April 1998

Entered into force (not in force)

Depositary: Portugal

Primary source citation: Secretariat of the Energy Charter Treaty

FINAL ACT OF THE INTERNATIONAL CONFERENCE AND DECISION OF THE ENERGY CHARTER CONFERENCE

I. Between 17 December 1994 and 18 December 1997 the Provisional Energy Charter Conference met to negotiate an amendment to the trade-related provisions of the Energy Charter Treaty. A Conference to adopt the amendment was held at Brussels on 23-24 April 1998. Representatives of the Republic of Albania, the Republic of Armenia, Australia, the Republic of Austria, the Azerbaijani Republic, the Kingdom of Belgium, the Republic of Belarus, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the European Communities, the Republic of Finland, the French Republic, the Republic of Georgia, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, the Republic of Iceland, Ireland, the Italian Republic, Japan, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Latvia, the Principality of Liechtenstein, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Moldova, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Russian Federation, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain, the Kingdom of Sweden, the Swiss Confederation, the Republic of Tajikistan, the former Yugoslav Republic of Macedonia, the Republic of Turkey, Turkmenistan, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the Republic of Uzbekistan (hereinafter referred to as "the representatives") participated in the Conference, as did invited observers from certain countries and international organizations.

II. The Energy Charter Conference, which was definitively established on the entry into force on 16 April 1998 of the Energy Charter Treaty, also met on 23 and 24 April 1998 to consider adoption of the Amendment to the Trade-Related Provisions of the Energy Charter Treaty in accordance with the provisions of the Energy Charter Treaty.

AMENDMENT TO THE TRADE-RELATED PROVISIONS OF THE ENERGY CHARTER TREATY

III. The text of the Amendment to the Trade-Related Provisions of the Energy Charter Treaty (hereinafter referred to as the "Amendment") which is set out in Annex 1 and Decisions with respect thereto which are set out in Annex 2 were adopted in accordance with the modalities of the international conference called for this purpose and under the Energy Charter Treaty in accordance with the procedure provided for in the Treaty.

UNDERSTANDINGS

IV. The following Understandings with respect to the Amendment were adopted:

1. Understanding with respect to Article 29(2)(a) and Annex W:
Notwithstanding the listing of paragraph 6 of article XXIV of the GATT 1994 in Annex W (A)(1)(a)(ii), any signatory affected by an increase in customs duties or other charges of any kind imposed on or in connection with importation or exportation referred to in the first sentence of that paragraph, is entitled to seek consultations in the Charter Conference.

2. Understanding with respect to Article 29(7):
In the case of a signatory, not a member of the WTO, which is listed in Annexes BR or BRQ or both, any concession offered formally in the process of its accession to the WTO with respect to Energy Materials or Products listed in Annex EM II or Energy-Related Equipment listed in Annex EQ II shall, for the purpose of this Article, be regarded as a commitment under the WTO.

3. Understanding with respect to Articles 29(6) and (7) and 34(3)(o):
The Charter Conference shall conduct an annual review with respect to any possibility of moving items of Energy Materials and Products or Energy-Related Equipment from Annexes EM I or EQ I to Annexes EM II or EQ II-.

DECLARATIONS

V. The following Declarations were made with respect to the Amendment:

Joint Declaration on Trade-Related Intellectual Property Rights

Signatories confirm their commitment to provide effective protection of intellectual property rights following the highest international standards.

Intellectual property rights include for the purpose of this Declaration in particular copyright and related rights (including computer programmes and data bases), trademarks, geographical indications, patents, designs, topographies of semiconductor products and undisclosed information.

Joint Declaration by the Russian Federation and the European Union

The Russian Federation has raised the issue of trade in nuclear materials. The Russian Federation and the EU agreed that the Partnership and Cooperation Agreement between the Russian Federation, the European Union and its Member States, which entered into force on 1 December 1997, is the appropriate framework to deal with this issue, as confirmed in the conclusions of 27 January 1998 Cooperation Council.

Annex 1

AMENDMENT

TO

THE TRADE-RELATED PROVISIONS

OF THE ENERGY CHARTER TREATY

ARTICLE 1

Article 29 of the Treaty shall be replaced by the following text:

ARTICLE 29

INTERIM PROVISIONS ON TRADE-RELATED MATTERS

(1) The provisions of this Article shall apply to trade in Energy Materials and Products and Energy-Related Equipment while any Contracting Party is not a member of the WTO.

(2) (a) Trade in Energy Materials and Products and Energy-Related Equipment between Contracting Parties at least one of which is not a member of the WTO shall be governed, subject to subparagraph (b) and to the exceptions and rules provided for in Annex W, by the provisions of the WTO Agreement, as applied and practised with regard to Energy Materials and Products and Energy-Related Equipment by members of the WTO among themselves, as if all Contracting Parties were members of the WTO.

(b) Such trade of a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics may instead be governed, subject to the provisions of Annex TFU, by an agreement between two or more such states, until 1 December 1999 or the admission of that Contracting Party to the WTO, whichever is the earlier.

(3) (a) Each signatory to this Treaty, and each state or Regional Economic Integration Organization acceding to this Treaty before 24 April 1998, shall on the date of its signature or of its deposit of its instrument of accession provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of Energy Materials and Products, notifying the level of such customs duties and charges applied on such date of signature or deposit. Each signatory to this Treaty, and each state or Regional Economic Integration Organization acceding to this Treaty before 24 April 1998, shall on that date provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of Energy-Related Equipment, notifying the level of such customs duties and charges applied on that date.

(b) Each state or Regional Economic Integration Organization acceding to this Treaty on or after 24 April 1998, shall, on the date of its deposit of its instrument of accession, provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of Energy Materials and Products and Energy-Related Equipment, notifying the level of such customs duties and charges applied on such date of deposit.

Any changes to such customs duties or charges of any kind imposed on or in connection with importation or exportation shall be notified to the Secretariat, which shall inform the Contracting Parties of such changes.

(4) Each Contracting Party shall endeavour not to increase any customs duty or charge of any kind imposed on or in connection with importation or exportation:

(a) in the case of the importation of Energy Materials and Products listed in Annex EM I or Energy-Related Equipment listed in Annex EQ I and described in Part I of the Schedule relating to the Contracting Party referred to in article II of the GATT 1994, above the level set forth in that Schedule, if the Contracting Party is a member of the WTO;

(b) in the case of the exportation of Energy Materials and Products listed in Annex EM I or Energy-Related Equipment listed in Annex EQ I, and that of their importation if the Contracting Party is not a member of the WTO, above the level most recently notified to the Secretariat, except as permitted by the provisions made applicable by subparagraph (2)(a).

(5) A Contracting Party may increase such customs duty or other charge above the level referred to in paragraph (4) only if:

(a) in case of a customs duty or other charge imposed on or in connection with importation, such action is not inconsistent with the applicable provisions of the WTO Agreement, other than those provisions of the WTO Agreement listed in Annex W; or

(b) it has, to the fullest extent practicable under its legislative procedures, notified the Secretariat of its proposal for such an increase, given other interested Contracting Parties reasonable opportunity for consultation with respect to its proposal, and accorded consideration to any representations from such Contracting Parties.

(6) In respect of trade between Contracting Parties at least one of which is not a member of the WTO, no such Contracting Party shall increase any customs duty or charge of any kind imposed on or in connection with importation or exportation of Energy Materials and Products listed in Annex EM II or Energy-Related Equipment listed in Annex EQ II above the lowest of the levels applied on the date of the decision by the Charter Conference to list the particular item in the relevant Annex.

A Contracting Party may increase such customs duty or other charge above that level only if:

(a) in case of a customs duty or other charge imposed on or in connection with importation, such action is not inconsistent with the applicable provisions of the WTO Agreement, other than those provisions of the WTO Agreement listed in Annex W; or

(b) in exceptional circumstances not elsewhere provided for in this Treaty, the Charter Conference decides to waive the obligation otherwise imposed on a Contracting Party by this paragraph, consenting to an increase in a customs duty, subject to any conditions the Charter Conference may impose.

(7) Notwithstanding paragraph (6), in the case of trade referred to in that paragraph, Contracting Parties listed in Annex BR in respect of Energy Materials and Products listed in Annex EM II, or in Annex BRQ in respect of Energy-Related Equipment listed in Annex EQ II, shall not increase any customs duty or other charge above the level resulting from their commitments or any provisions applicable to them under the WTO Agreement.

(8) Other duties and charges imposed on or in connection with importation or exportation of Energy Materials and Products or Energy-Related Equipment shall be subject to the provisions of the Understanding on the Interpretation of Article II: 1(b) of the GATT 1994 as modified according to Annex W.

(9) Annex D shall apply:

(a) to disputes regarding compliance with provisions applicable to trade under this Article;

(b) to disputes regarding the application by a Contracting Party of any measure, whether or not it conflicts with the provisions of this Article, which is considered by another Contracting Party to nullify or impair any benefit accruing to it directly or indirectly under this Article; and

(c) unless the Contracting Parties parties to the dispute agree otherwise, to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a member of the WTO,

except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

(i) has been notified in accordance with and meets the other requirements of sub-paragraph (2)(b) and Annex TFU; or

(ii) establishes a free-trade area or a customs union as described in article XXIV of the GATT 1994.

ARTICLE 2

The Treaty shall be amended as follows:

In the Preamble, paragraph seven, replace "General Agreement on Tariffs and Trade and its Related Instruments" with "Agreement Establishing the World Trade Organization"

In the Preamble, paragraph eight, replace "related equipment" with "Energy-Related Equipment".

In the Preamble, paragraph nine, replace "General Agreement on Tariffs and Trade" and "parties thereto" with "World Trade Organization" and "members thereof"

In the Preamble, paragraph ten, replace "parties to the General Agreement on Tariffs and Trade and its Related Instruments" with "members of the World Trade Organization".

In Article 1, replace the text of paragraph (4) with:

"(4) "Energy Materials and Products", based on the Harmonised System of the World Customs Organization and the Combined Nomenclature of the European Communities, means the items included in Annexes EM I or EM II ."

In Article 1, after the text of paragraph (4) insert:

"(4bis) "Energy-Related Equipment", based on the Harmonised System of the World Customs Organization, means the items included in Annexes EQ I or EQ II."

In Article 1, replace the text of paragraph (11) with :

"(a) "WTO" means the World Trade Organization established by the Agreement Establishing the World Trade Organization.

(b) "WTO Agreement" means the Agreement Establishing the World Trade Organization, its Annexes and the decisions, declarations and understandings related thereto, as subsequently rectified, amended and modified from time to time.

(c) "GATT 1994" means the General Agreement on Tariffs and Trade as specified in Annex 1A to the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified from time to time."

In Article 3, after "Energy Materials and Products" insert "and Energy-Related Equipment".

In Article 4, title, replace "GATT and Related Instruments" with "WTO Agreement" and in the text of Article 4, replace "parties to the GATT" with "members of the WTO" and replace "GATT and Related Instruments" with "WTO Agreement".

In Article 5, paragraph (1), insert "1994" following "article III and XI of the GATT" and replace "GATT and Related Instruments" with "WTO Agreement".

In Article 14, paragraph (6), replace "GATT and Related Instruments" with "WTO Agreement".

In Article 20, paragraph (1), replace "GATT and relevant Related Instruments" with "WTO Agreement", and after "Energy Materials and Products" insert "or Energy-Related Equipment".

In Article 21, paragraph (4), replace "Article 29(2) to (6)" with "Article 29(2) to (8)".

In Article 25, paragraph (3), replace "GATT and Related Instruments" with "WTO Agreement".

In Article 34, paragraph (3) add after sub-paragraph (m):

"(n) consider and approve the listing of signatories in Annexes BR or BRQ or in both these Annexes;

(o) consider and approve the addition of items to Annex EM II from Annex EM I with the corresponding deletion of those items from Annex EM I and consider and approve the addition of items to Annex EQ II from Annex EQ I with the corresponding deletion of those items from Annex EQ I;"

In Article 34, paragraph (3) replace the denomination of sub-paragraph "(n)" with sub-paragraph "(p)".

In Article 36(1)(d), replace "G" with "W".

In Article 36, in paragraph (1) after subparagraph (f) add:

"(g) approve the addition of items to Annex EM II from Annex EM I with the corresponding deletion of those items from Annex EM I and approve the addition of items to Annex EQ II from Annex EQ I with the corresponding deletion of those items from Annex EQ I."

In Article 36, paragraph (4) replace "(f)" with "(g)".

In the 'Table of Contents' of Annexes to the Energy Charter Treaty, rename "Annex EM" as "Annex EM I", insert as 2 to 4 the additional Annexes "Annex EM II Energy Materials and Products (In accordance with Article 1(4))", "Annex EQ I List of Energy-Related Equipment (In accordance with Article 1(4bis))" and "Annex EQ II List of Energy-Related Equipment (In accordance with Article 1(4bis))".

In 9. Annex G, replace "GATT and Related Instruments" with "WTO Agreement", and rename "Annex G" as "Annex W".

Renumber Annexes 2 to 10 as Annexes 5 to 13. Insert as 14 and 15 the additional Annexes "Annex BR List of Contracting Parties which shall not increase any customs duty or other charge above the level resulting from their commitments or any provisions applicable to them under the WTO Agreement (In accordance with Article 29(7))" and "Annex BRQ List of Contracting Parties which shall not increase any customs duty or other charge above the level resulting from their commitments or any provisions applicable to them under the WTO Agreement (In accordance with Article 29(7))".

Renumber Annexes 11 to 14 as Annexes 16 to 19.

In respect of Annex D, replace "(In accordance with Article 29(7))" with "(In accordance with Article 29(9))."

In Annex EM, rename "EM" as "EM I".

In Annex TRM, paragraph (1)(a) and (b) and in paragraph (3)(a) and (b), replace "party to the GATT" with "member of the WTO".

In Annex TFU, paragraphs (2)(c), (4), first sentence, and (6), first sentence, replace "GATT and Related Instruments" with "WTO Agreement".

ARTICLE 3

Annex D of the Treaty shall be amended as follows:

In the heading replace "(In accordance with Article 29(7))" with "(In accordance with Article 29(9))."

At the end of paragraph (1)(a), delete the period and add thereafter following "29":

> ", or about any measures that might nullify or impair any benefit accruing to a Contracting Party directly or indirectly under the provisions applicable to trade under Article 29."

In paragraph (1)(b), at the end of the first sentence, delete the period and insert thereafter following "29":

> ", or any measure that might nullify or impair any benefit accruing to a Contracting Party directly or indirectly under the provisions applicable to trade under Article 29."

and in the second sentence, replace "GATT and Related Instruments" with "WTO Agreement".

In paragraph (1)(d), insert after the comma before "the Contracting Parties":

> "or to nullify or impair any benefit accruing to it directly or indirectly under the provisions applicable to trade under Article 29, "

In paragraph (2)(a), second sentence, replace "GATT and Related Instruments" with "WTO Agreement".

In paragraph (3)(a), second sentence, replace "GATT and Related Instruments" with "WTO Agreement"

and replace the penultimate sentence with :

> "Panels shall be guided by the interpretations given to the WTO Agreement within the framework of the WTO Agreement and shall not question the compatibility with Article 5 or 29 of practices applied by any Contracting Party which is a member of the WTO to other members of the WTO to which it applies the WTO Agreement and which have not been taken by those other members to dispute resolution under the WTO Agreement."

In paragraph (4)(b), first sentence, replace "GATT or a Related Instrument" with "WTO Agreement".

In paragraph (5)(c), replace "GATT or Related Instruments" with "WTO Agreement".

In paragraph (7), first sentence, replace "party to the GATT" with

> "member of the WTO"

and replace "panellists currently nominated for the purpose of GATT dispute panels" with:

> "persons whose names appear on the indicative list of governmental and non-governmental individuals, referred to in article 8 of the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 to the WTO Agreement or who have in the past served as panellists on a GATT or WTO dispute settlement panel."

Add after paragraph (9):

"(10) Where a Contracting Party invokes Article 29(9)(b), this Annex shall apply, subject to the following modifications:

(a) the complaining party shall present a detailed justification in support of any request for consultations or for the establishment of a panel regarding a measure which it considers to nullify or impair any benefit accruing to it directly or indirectly under Article 29;

(b) where a measure has been found to nullify or impair benefits under Article 29 without violation thereof, there is no obligation to withdraw the measure; however, in such a case the panel shall recommend that the Contracting Party concerned make a mutually satisfactory adjustment;

(c) the arbitral panel provided for in paragraph (6)(b), upon the request of either party, may determine the level of benefits that have been nullified or impaired, and may also suggest ways and means of reaching a mutually satisfactory adjustment; such suggestions shall not be binding upon the parties to the dispute".

ARTICLE 4

The following Annex shall replace Annex G of the Treaty:

ANNEX W

EXCEPTIONS AND RULES GOVERNING THE APPLICATION OF THE PROVISIONS OF THE WTO AGREEMENT (in accordance with Article 29(2)(a))

(A) Exceptions to the Application of the Provisions of the WTO Agreement.

The following provisions of the WTO Agreement shall not be applicable under Article 29(2)(a):

(1) Agreement Establishing the World Trade Organization
All except article IX, paragraphs 3 and 4 and XVI, paragraphs 1, 3 and 4

(a) Annex 1A to the WTO Agreement:
Multilateral Agreements on Trade in Goods:

(i) General Agreement on Tariffs and Trade 1994

II	Schedules of Concessions, paragraphs (1)(a),(1)(b,1st sentence), (1)(c) and (7)
IV	Special Provisions relating to Cinematographic Films
XV	Exchange Arrangements
XVIII	Governmental Assistance to Economic Development
XXII	Consultation
XXIII	Nullification and Impairment
XXIV	Customs Unions and Free-Trade Areas, paragraph 6–
XXV	Joint Action by the Contracting Parties
XXVI	Acceptance, Entry into Force and Registration
XXVII	Withholding or Withdrawal of Concessions
XXVIII	Modification of Schedules
XXVIII bis	Tariff Negotiations
XXIX	The Relation of this Agreement to the Havana Charter
XXX	Amendments
XXXI	Withdrawal
XXXII	Contracting Parties
XXXIII	Accession
XXXV	Non-application of the Agreement between Particular Contracting Parties
XXXVI	Principles and Objectives
XXXVII	Commitments

XXXVIII Joint Action

Annex H Relating to Article XXVI

Annex I Notes and Supplementary Provisions (related to the above-mentioned GATT provisions)

Understanding on the Interpretation of Article II: 1(b) of the GATT 1994

2 Date of incorporation of other duties and charges into the schedule

4 Challenges, (1st sentence only)

6 Dispute settlement

8 Supersession of BISD 27S/24

Understanding on the Interpretation of Article XVII of the GATT 1994

1 only the phrase "for review by the working party to be set up under paragraph (5)"

5 Working Party on state trading

Understanding on the Balance-of-Payments Provisions of the GATT 1994

5 Committee on Balance-of-Payments Restrictions, except last sentence

7 Review by the Committee, the phrase "or under paragraph 12(b) of Article XVIII"

8 Simplified consultation procedures

13 Conclusions of Balance-of-Payments consultations, first sentence, third sentence: the phrase "and XVIII: B, the 1979 Declaration" and last sentence.

Understanding on the Interpretation of Article XXIV of the GATT 1994

All except paragraph 13

Understanding in Respect of Waivers of Obligations under the GATT 1994

3 Nullification and Impairment

Understanding on the Interpretation of Article XXVIII of the GATT 1994

Marrakesh Protocol to the GATT 1994

(ii) Agreement on Agriculture

(iii) Agreement on the Application of Sanitary and Phytosanitary Measures

(iv) Agreement on Textiles and Clothing

(v) Agreement on Technical Barriers to Trade

Preamble (paragraphs 1, 8, 9)

1.3 General Provisions

10.5 The words "Developed country" and the words "French or Spanish" which shall be replaced by "Russian"

10.6 The phrase "and draw attention of developing country Members .... interest to them."

10.9 Information about technical regulations, standards and certification systems (languages)

11 Technical assistance to other Parties

12 Special and differential treatment of developing countries

13 The Committee on Technical Barriers to Trade

14 Consultation and Dispute Settlement

15 Final Provisions (other than 15.2 and 15.5)

Annex 2 Technical Expert Groups

(vi) Agreement on Trade-Related Investment Measures

(vii) Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping)

15 Developing Country Members

16 Committee on Anti-Dumping Practices

17 Consultation and Dispute Settlement

18 Final Provisions, paragraphs 2 and 6

(viii) Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation)

Preamble, paragraph 2, the phrase "and to secure additional benefits for the international trade of developing countries"

14 Application of Annexes (second sentence except as far as it refers to Annex III paragraphs 6 and 7)

18 Institutions (Committee on Customs Valuation)

19 Consultation and Dispute Settlement

20 Special and differential treatment of developing countries

21 Reservations

23 Review

24 Secretariat

Annex II Technical Committee on Customs Valuation

Annex III Extra Provisions (except paragraphs 6 and 7)

(ix) Agreement on Preshipment Inspection

Preamble, paragraphs 2 and 3

3.3 Technical Assistance

	6	Review
	7	Consultation
	8	Dispute Settlement
(x)	Agreement on Rules of Origin	
	Preamble, 8th indent	
	4	Institutions
	6	Review
	7	Consultation
	8	Dispute Settlement
	9	Harmonization of Rules of Origin
	Annex I Technical Committee on Rules of Origin	
(xi)	Agreement on Import Licensing Procedures	
	1.4(a)	General Provisions (last sentence)
	2.2	Automatic Import Licensing (footnote 5)
	3.5(iv)	Non-Automatic Import Licensing (last sentence)
	4	Institutions
	6	Consultations and Dispute Settlement
	7	Review (except paragraph 3)
	8	Final provisions (except paragraph 2)
(xii)	Agreement on Subsidies and Countervailing Measures	
	4	Remedies (except paragraphs 4.1, 4.2 and 4.3)
	5	Adverse Effects, last sentence
	6	Serious Prejudice (paragraphs 6.6, the phrases "subject to the provisions of paragraph 3 of Annex V" and "arising under Article 7, and to the panel established pursuant to paragraph 4 of Article 7", 6.8 the phrase ", including information submitted in accordance with the provisions of Annex V" and 6.9)
	7	Remedies (except paragraphs 7.1, 7.2 and 7.3)
	8	Identification of Non-Actionable Subsidies, paragraph 8.5 and Footnote 25
	9	Consultations and Authorised Remedies
	24	Committee on Subsidies and Countervailing Measures and Subsidiary Bodies
	26	Surveillance
	27	Special and Differential Treatment of Developing Country Members

29 Transformation into Market Economy, paragraph 29.2 (except first sentence)

30 Dispute Settlement

31 Provisional Application

32.2, 32.7 and 32.8 (only insofar as it refers to Annexes V and VII) Final Provisions

Annex V Procedures for Developing Information concerning Serious Prejudice

Annex VII Developing Countries

(xiii) Agreement on Safeguards

9 Developing Country Members

12 Notification and Consultation, paragraph 10

13 Surveillance

14 Dispute Settlement

Annex Exception

(b) Annex 1B to the WTO Agreement:

General Agreement on Trade in Services

(c) Annex 1C to the WTO Agreement:

Agreement on Trade-Related Aspects of Intellectual Property Rights

(d) Annex 2 to the WTO Agreement:

Understanding on Rules and Procedures Governing the Settlement of Disputes

(e) Annex 3 to the WTO Agreement:

Trade Policy Review Mechanism

(f) Annex 4 to the WTO Agreement:

Plurilateral Trade Agreements:

(i) Agreement on Trade in Civil Aircraft

(ii) Agreement on Government Procurement

(g) Ministerial Decisions, Declarations and Understanding:

(i) Decision on Measures in favour of Least-Developed Countries

(ii) Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy Making

(iii) Decision on Notification Procedures

(iv) Declaration on the Relationship of the WTO with the IMF

(v) Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

(vi) Decision on Notification of First Integration under Article 2.6 of the Agreement on Textiles and Clothing

(vii) Decision on Review of the ISO/IEC Information Centre Publication

(viii) Decision on Proposed Understanding on WTO-ISO Standards Information System

(ix) Decision on Anti-Circumvention

(x) Decision on Review of Article 17.6 of the Agreement on Implementation of Article VI of the GATT 1994

(xi) Declaration on Dispute Settlement pursuant to the Agreement on Implementation of Article VI of the GATT 1994 or Part V of the Agreement on Subsidies and Countervailing Measures

(xii) Decision Regarding Cases Where Customs Administrations Have Reason to Doubt the Truth or Accuracy of the Declared Value

(xiii) Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires

(xiv) Decision on Institutional Arrangements for the GATS

(xv) Decision on certain Dispute Settlement Procedures for the GATS

(xvi) Decision on Trade in Services and the Environment

(xvii) Decision on Negotiations on Movement of Natural Persons

(xviii) Decision on Financial Services

(xix) Decision on Negotiations on Maritime Transport Services

(xx) Decision on Negotiations on Basic Telecommunications

(xxi) Decision on Professional Services

(xxii) Decision on Accession to the Agreement on Government Procurement

(xxiv) Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes

(xxv) Understanding on Commitments in Financial Services

(xxvi) Decision on the Acceptance of and Accession to the Agreement Establishing the WTO

(xxvii) Decision on Trade and Environment

(xxviii) Decision on Organizational and Financial Consequences Following from Implementation of the Agreement Establishing the WTO

(xxix) Decision on the Establishment of the Preparatory Committee for the WTO

(2) All other provisions in the WTO Agreement which relate to:

(a) governmental assistance to economic development and the treatment of developing countries, except for paragraphs (1) to (4) of the Decision of 28 November 1979 (L/4903) on Differential and more Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

(b) the establishment or operation of specialist committees and other subsidiary institutions;

(c) signature, accession, entry into force, withdrawal, deposit and registration.

(3) All agreements, arrangements, decisions, understandings or other joint action pursuant to the provisions listed as not applicable in paragraphs (1) or (2).

(4) Trade in nuclear materials may be governed by agreements referred to in the Declarations related to this paragraph contained in the Final Act of the European Energy Charter Conference.

(B) Rules Governing the Application of Provisions of the WTO Agreement.

(1) In the absence of a relevant interpretation of the WTO Agreement adopted by the Ministerial Conference or the General Council of the World Trade Organization under paragraph 2 of article IX of the WTO Agreement concerning provisions applicable under Article 29(2)(a), the Charter Conference may adopt an interpretation.

(2) Requests for waivers under Article 29(2) and (6)(b) shall be submitted to the Charter Conference, which shall follow, in carrying out these duties, the procedures of paragraphs 3 and 4 of article IX of the WTO Agreement.

(3) Waivers of obligations in force in the WTO shall be considered in force for the purposes of Article 29 while they remain in force in the WTO.

(4) The provisions of article II of the GATT 1994 which have not been disapplied shall, without prejudice to Article 29(4), (5) and (7), be modified as follows :

(a) All Energy Materials and Products listed in Annex EM II and Energy-Related Equipment listed in Annex EQ II imported from or exported to any other Contracting Party shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation or exportation, in excess of those imposed on the date of the standstill referred to in Article 29(6), first sentence, or under Article 29(7), or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing or exporting territory on the date referred to in Article 29(6), first sentence.

(b) Nothing in article II of the GATT 1994 shall prevent any Contracting Party from imposing at any time on the importation or exportation of any product:

(i) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of article III of GATT 1994 in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(ii) any anti-dumping or countervailing duty applied consistently with the provisions of article VI of GATT 1994;

(iii) fees or other charges commensurate with the cost of services rendered.

(c) No Contracting Party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of the standstill obligations provided for in Article 29(6) or (7).

(d) If any Contracting Party establishes, maintains or authorises, formally or in effect, a monopoly of the importation or exportation of any Energy Material or Product listed in Annex EM II or in respect of Energy-Related Equipment listed in EQ II, such monopoly shall not operate so as to afford protection on the average in excess of the amount of protection permitted by the standstill obligation provided for in Article 29(6) or (7). The provisions of this paragraph shall not limit the use by Contracting Parties of any form of assistance to domestic producers permitted by other provisions of this Treaty.

(e) If any Contracting Party considers that a product is not receiving from another Contracting Party the treatment which the first Contracting Party believes to have been contemplated by the standstill obligation provided for in Article 29(6) or (7), it shall bring the matter directly to the attention of the other Contracting Party. If the latter agrees that the treatment contemplated was that claimed by the first Contracting Party, but declares that such treatment cannot be accorded because a court or other proper authority has ruled to the effect that the product involved cannot be classified under the tariff laws of such Contracting Party so as to permit the treatment contemplated in this Treaty, the two Contracting Parties, together with any other Contracting Parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.

(f) (i) The specific duties and charges included in the Tariff Record relating to the Contracting Parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such Contracting Parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of the standstill referred to in Article 29(6), first sentence, or under Article 29(7). Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction; Provided that the Conference concurs that such adjustments will not impair the value of the standstill obligation provided for in Article 29(6) or (7) or elsewhere in this Treaty, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(ii) Similar provisions shall apply to any Contracting Party not a member of the Fund, as from the date on which such Contracting Party becomes a member of the Fund or enters into a special exchange agreement in pursuance of Article XV of GATT 1994.

(g) Each Contracting Party shall notify the Secretariat of the customs duties and charges of any kind applicable on the date of the standstill referred to in Article 29(6) first sentence. The Secretariat shall keep a Tariff Record of the customs duties and charges of any kind relevant for the purpose of the standstill on customs duties and charges of any kind under Article 29(6) or (7).

(5) The Decision of 26 March 1980 on "Introduction of a Loose-Leaf System for the Schedules of Tariff Concessions" (BISD 27S/24) shall not be applicable under Article 29(2)(a). The applicable provisions of the Understanding on the Interpretation of Article II:1(b) of the GATT 1994 shall, without prejudice to Article 29(4), (5) or (7), apply with the following modifications:

(a) In order to ensure transparency of the legal rights and obligations deriving from paragraph 1(b) of article II of GATT 1994, the nature and level of any "other duties or charges" levied on any Energy Materials and Products listed in Annex EM II or Energy-Related Equipment listed in Annex EQ II with respect to their importation or exportation, as referred to in that provision, shall be recorded in the Tariff Record at the levels applying at the date of the standstill referred to in Article 29(6), first sentence, or under Article 29(7) respectively, against the tariff item to which they apply. It is understood that such recording does not change the legal character of "other duties or charges".

(b) "Other duties or charges" shall be recorded in respect of all Energy Materials and Products listed in Annex EM II and Energy-Related Equipment listed in Annex EQ II.

(c) It will be open to any Contracting Party to challenge the existence of an "other duty or charge", on the ground that no such "other duty or charge" existed at the date of the standstill referred to in Article 29(6), first sentence, or the relevant date under Article 29(7), for the item in question, as well as the consistency of the recorded level of any "other duty or charge" with the standstill obligation provided for by Article 29(6) or (7), for a period of one year after the entry into force of the Amendment to the trade-related provisions of this Treaty, adopted by the Charter Conference on 24 April 1998, or one year after the notification to the Secretariat of the level of customs duties and charges of any kind referred to in Article 29(6), first sentence, or Article 29(7), if that is the later.

(d) The recording of "other duties or charges" in the Tariff Record is without prejudice to their consistency with rights and obligations under GATT 1994 other than those affected by sub-paragraph (iii) above. All Contracting Parties retain the right to challenge, at any time, the consistency of any "other duty or charge" with such obligations.

(e) "Other duties or charges" omitted from a notification to the Secretariat shall not subsequently be added to it and any "other duty or charge" recorded at a level lower than that prevailing on the applicable date shall not be restored to that level unless such additions or changes are made within six months of the notification to the Secretariat.

(6) Where the WTO Agreement refers to "duties inscribed in the Schedule" or to "bound duties", there shall be substituted "the level of customs duties and charges of any kind permitted under Article 29(4) to (8)".

(7) Where the WTO Agreement specifies the date of entry into force of the WTO Agreement (or an analogous phrase) as the reference date for an action, there shall be substituted the date of entry into force of the Amendment to the trade-related provisions of this Treaty adopted by the Charter Conference on 24 April 1998.

(8) With respect to notifications required by the provisions made applicable by Article 29(2)(a):

(a) Contracting Parties which are not members of the WTO shall make their notifications to the Secretariat. The Secretariat shall circulate copies of the notifications to all Contracting Parties. Notifications to the Secretariat shall be in one of the authentic languages of this Treaty. The accompanying documents may be solely in the language of the Contracting Party;

(b) such requirements shall not apply to Contracting Parties to this Treaty which are also members of the WTO which provides for its own notification requirements.

(9) Where Article 29(2)(a) or (6)(b) applies, the Charter Conference shall carry out any applicable duties that the WTO Agreement assigned to the relevant bodies under the WTO Agreement.

(10) (a) Interpretations of the WTO Agreement adopted by the Ministerial Conference or the General Council of the WTO under paragraph 2 of article IX of the WTO Agreement insofar as they interpret provisions applicable under Article 29(2)(a) shall apply.

(b) Amendments to the WTO Agreement under article X of the WTO Agreement that are binding on all members of the WTO (other then those under paragraph 9 of article X) insofar as they amend or relate to provisions applicable under Article 29(2)(a), shall apply unless a Contracting Party requests the Charter Conference to disapply or modify such amendment. The Charter Conference shall take the decision by a three-fourths majority of the Contracting Parties and determine the date of the disapplication or modification of such amendment. A request for the disapplication or modification of such amendment may include a request that the application of the amendment be suspended pending the decision of the Charter Conference.

A request to the Charter Conference made under this paragraph shall be made within six months of the circulation of a notification from the Secretariat that the amendment has taken effect under the WTO Agreement.

(c) Interpretations, amendments, or new instruments adopted by the WTO, other than the interpretations and amendments applied under paragraphs (a) and (b) shall not apply.

ARTICLE 5

The following Annexes shall be inserted in the Annexes to the Treaty:

2. ANNEX EM II

ENERGY MATERIALS AND PRODUCTS

(In accordance with Article 1(4))

3. ANNEX EQ I

LIST OF ENERGY-RELATED EQUIPMENT

(In accordance with Article 1(4bis))

For the purpose of this Annex, 'Ex' has been included to indicate that the product description referred to does not exhaust the entire range of products within the World Customs Organization Nomenclature headings or the Harmonized System codes listed below.

Ex 39.19		Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls.
	Ex 3919.10	- In rolls of a width not exceeding 20 cm
		--To be used for oil and gas pipelines and sea lines protection
Ex 73.04*		Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel.
	7304.10	- Line pipe of a kind used for oil or gas pipelines
		- Casing, tubing and drill pipe, of a kind used in drilling for oil or gas:[1]
	7304.21[1]	- Drill pipe
	7304.29[1]	- Other
Ex 73.05		Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406.4 mm, of iron or steel.
		- Line pipe of a kind used for oil or gas pipelines:
	7305.11	- Longitudinally submerged arc welded
	7305.12	- Other, longitudinally welded
	7305.19	- Other
	7305.20	- Casing of a kind used in drilling for oil or gas
Ex 73.06*		Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel.
	7306.10	- Line pipe of a kind used for oil or gas pipelines

[1] *Covered by 7304 20 in the 1992 version.*

* Except products for use in civil aircraft

	7306.20	- Casing and tubing of a kind used in drilling for oil or gas
73.07	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel.	
Ex 73.08	Structures (excluding prefabricated buildings of heading No. 94.06) and parts of structures (for example, bridges, and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel.	
	7308.20	Towers and lattice masts
	7308.40	Equipment for scaffolding, shuttering, propping or pitpropping
	Ex 7308.90	Other
		Parts for oil and gas drilling platform
Ex 73.09	Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment.	
	Ex 7309.00	For liquids
		Of a capacity exceeding 1,000,000 l, where specially designed for strategic oil reserves
		Heat insulated
Ex 73.11	Containers for compressed or liquefied gas, of iron or steel.	
		Of more than 1,000 l
Ex 73.12*	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated.	
	Ex 7312.10	Stranded wires, ropes and cables
		Ropes and cables coated, non-coated or zinc coated of a kind used in the energy sector
Ex 73.26	Other articles of iron or steel.	
	Ex 7326.90	Other
	Connectors for optical fibre cables	
Ex 76.13	Aluminium containers for compressed or liquefied gas.	
		Of more than 1,000 l
Ex 76.14	Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	
	Ex 7614.10	With steel core
		Of a kind used in electricity generation, transmission and distribution

* Except products for use in civil aircraft

	Ex 7614.90	Other
		Of a kind used in electricity generation, transmission and distribution
Ex 78.06		Other articles of lead.
		Containers with an anti-radiation lead covering, for the transport or storage of highly radioactive materials
Ex 81.09		Zirconium and articles thereof, including waste and scrap.
	Ex 8109.90	Other
		Cartridges or tubes for nuclear fuel elements
Ex 82.07		Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw driving), including dies for drawing or extruding metal, and rock drilling or earth boring tools.
		Rock drilling or earth boring tools:
	8207.13[2]	With working part of cermets
	8207.19	Other, including parts
Ex 83.07*		Flexible tubing of base metal, with or without fittings.
		For exclusive use in oil and gas wells
84.01		Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation.
84.02		Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers.
84.03		Central heating boilers other than those of heading No. 84.02.
84.04		Auxiliary plant for use with boilers of heading No. 84.02 or 84.03 (for example, economisers, super-heaters, soot removers, gas recoverers); condensers for steam or other vapour power units.
84.05		Producer gas or water gas generators, with or without their purifiers; acetylene gas generators and similar water process gas generators, with or without their purifiers.
Ex 84.06		Steam turbines and other vapour turbines.
		Other turbines[3]:
	8406.81[3]	Of an output exceeding 40 MW
	8406.82[3]	Of an output not exceeding 40 MW
	8406.90	Parts

[2] *Covered by 8207 11 and 12 in the 1992 version.*
[3] *Covered by 8406 19 in the 1992 version.*
* Except products for use in civil aircraft

Ex 84.08*	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines).	
	Ex 8408.90	Other engines
		New, of a power exceeding 50 kW
Ex 84.09	Parts suitable for use solely or principally with the engines of heading No. 84.07 or 84.08.	
	8409.99	Other
84.10	Hydraulic turbines, water wheels, and regulators therefor.	
84.11*	Turbo-jets, turbo-propellers and other gas turbines.	
84.13*	Pumps for liquids, whether or not fitted with a measuring device; liquids elevators.	
Ex 84.14*	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters.	
		Fans:
	Ex 8414.59	Other
		For use in mining and power plants
	8414.80	Other
	8414.90	Parts
84.16	Furnace burners for liquid fuel, for pulverised solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances.	
Ex 84.17	Industrial or laboratory furnaces and ovens, including incinerators, non-electric.	
	Ex 8417.80	Other
		Exclusively waste incinerators, laboratory furnaces and ovens and uranium sintering ovens
	Ex 8417.90	Parts
		Exclusively for waste incinerators, laboratory furnaces and ovens and uranium sintering ovens
Ex 84.18*	Refrigerators, freezers, and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading No. 84.15.	
		Other refrigerating or freezing equipment; heat pumps:
	8418.61	Compression type units whose condensers are heat exchangers
	8418.69	Other
Ex 84.19*	Machinery, plant or laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vapourising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric.	

* Except products for use in civil aircraft

	8419.50	Heat exchange units
	8419.60	Machinery for liquefying air or other gases
		Other machinery, plant and equipment:
	8419.89	Other
Ex 84.21*	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids and gases.	
		Filtering or purifying machinery and apparatus for liquids:
	8421.21	For filtering or purifying water
		Filtering or purifying machinery and apparatus for gases:
	8421.39	Other
Ex 84.25*	Pulley tackle and hoists other than skip hoists; winches and capstans; jacks.	
	8425.20	Pit-head winding gear; winches specially designed for use underground
Ex 84.26*	Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane.	
	Ex 8426.20	Tower cranes
		For offshore platforms and onshore rigs
		Other machinery:
	Ex 8426.91	Designed for mounting on road vehicles
		Lifting equipment for repairing and completion of wells
Ex 84.29	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers.	
		Mechanical shovels, excavators and shovel loaders:
	Ex 8429.51	Front-end shovel loaders
		Loaders specially designed for underground use
Ex 84.30	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers.	
		Coal or rock cutters and tunnelling machinery:
	8430.31	Self-propelled
	8430.39	Other
		Other boring or sinking machinery:

* Except products for use in civil aircraft

	Ex 8430.41	Self-propelled
		For the discovery or exploitation of deposits of oil and gas
	Ex 8430.49	Other
		For the discovery or exploitation of deposits of oil and gas
Ex 84.31		Parts suitable for use solely or principally with the machinery of heading Nos. 84.25 to 84.30
		Only for machinery covered
84.71*		Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included.
Ex 84.74		Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand.
	8474.10	Sorting, screening, separating or washing machines
	8474.20	Crushing or grinding machines
	Ex 8474.90	Parts
		Of cast iron or cast steel
Ex 84.79*		Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter[4].
		Other machines and mechanical appliances:
	Ex 8479.89	Other
		Mobile hydraulic powered mine roof support
Ex 84.81		Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves.
	8481.10	Pressure-reducing valves
	8481.20	Valves for oleohydraulic or pneumatic transmissions
	8481.40	Safety or relief valves
	8481.80	Other appliances
	8481.90	Parts
Ex 84.83		Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints).

* Except products for use in civil aircraft

[4] *Chapter 84*

	Ex 8483.40	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters Transmission elements exclusively for use in sucker rod pumping units in the oil and gas industry
Ex 84.84*		Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals.
	8484.10	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal
	8484.20[5]	Mechanical seals
85.01*		Electric motors and generators (excluding generating sets).
85.02*		Electric generating sets and rotary converters.
85.03*		Parts suitable for use solely or principally with the machines of heading No. 85.01 or 85.02.
Ex 85.04*		Electrical transformers, static converters (for example, rectifiers) and inductors.
		Liquid dielectric transformers:
	8504.21	Having a power handling capacity not exceeding 650 kVA
	8504.22	Having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA
	8504.23	Having a power handling capacity exceeding 10,000 kVA
		Other transformers:
	8504.33	Having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA
	8504.34	Having a power handling capacity exceeding 500 kVA
	8504.40	Static converters
	8504.50	Other inductors
	8504.90	Parts
Ex 85.07*		Electric accumulators, including separators therefor, whether or not rectangular (including square).
		Excluding the use for non-energy sectors
85.14		Industrial or laboratory electric (including induction or dielectric) furnaces and ovens; other industrial or laboratory induction or dielectric heating equipment.
Ex 85.26*		Radar apparatus, radio navigational aid apparatus and radio remote control apparatus.

[5] *Not covered by separate subheading in the 1992 version.*

* Except products for use in civil aircraft

	8526.10	Radar apparatus
		Other:
	8526.91	Radio navigational aid apparatus
85.31*	Electric sound or visual signalling apparatus (for example bells, sirens, indicator panels, burglar or fire alarms), other than those of heading No. 85.12 or 85.30.	
Ex 85.32	Electrical capacitors, fixed, variable or adjustable (pre-set).	
	8532.10	Fixed capacitors designed for use in 50/60 Hz circuits and having a reactive power handling capacity of not less than 0.5 kvar (power capacitors)
85.35	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, fuses, lightning arresters, voltage limiters, surge suppressors, plugs, junction boxes), for a voltage exceeding 1,000 volts.	
85.36	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 volts.	
	Ex 8536.10	Fuses
		Exceeding 63 ampere
	Ex 8536.20	Automatic circuit breakers
		Exceeding 63 ampere
	Ex 8536.30	Other apparatus for protecting electrical circuits
		Exceeding 16 ampere
		Relays:
	8536.41	For a voltage not exceeding 60 V
	8536.49	Other
	Ex 8536.50	Other switches
		For a voltage exceeding 60 V
85.37	Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading No. 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading No. 85.17.	
85.38	Parts suitable for use solely or principally with the apparatus of heading No. 85.35, 85.36 or 85.37.	
Ex 85.41	Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light emitting diodes; mounted piezo-electric crystals.	
	Ex 8541.40	Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light emitting diodes

* Except products for use in civil aircraft

		Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels
Ex 85.44		Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors.
	8544.60	Other electric conductors, for a voltage exceeding 1,000 V
	8544.70	Optical fibre cables
Ex 85.45		Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes.
	8545.20	Brushes
85.46		Electrical insulators of any material.
85.47		Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating material apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly, other than insulators of heading No. 85.46; electrical conduit tubing and joints therefor, of base metal lined with insulating material.
Ex 87.04		Motor vehicles for the transport of goods.
		Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel):
	Ex 8704.21	g.v.w. not exceeding 5 tonnes
		Specially designed for the transport of highly radioactive materials
	Ex 8704.22	g.v.w. exceeding 5 tonnes but not exceeding 20 tonnes
		Specially designed for the transport of highly radioactive materials
	Ex 8704.23	g.v.w. exceeding 20 tonnes
		Specially designed for the transport of highly radioactive materials
		Other, with spark-ignition internal combustion piston engine:
	Ex 8704.31	g.v.w. not exceeding 5 tonnes
		Specially designed for the transport of highly radioactive materials
	Ex 8704.32	g.v.w. exceeding 5 tonnes
		Specially designed for the transport of highly radioactive materials
Ex 87.05		Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units).
	8705.20	Mobile drilling derricks

Ex 87.09	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles.	
		Vehicles:
	Ex 8709.11	Electrical
		Specially designed for the transport of highly radioactive materials
	Ex 8709.19	Other
		Specially designed for the transport of highly radioactive materials
Ex 89.05	Light-vessels, fire-floats, dredgers, floating cranes, and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms.	
	8905.20	Floating or submersible drilling or production platforms
Ex 90.15	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders.	
	Ex 9015.80	Other instruments and appliances
		Geophysical instruments only
	9015.90	Parts and accessories
Ex 90.26*	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No. 90.14, 90.15, 90.28 or 90.32.	
		Except for use in the water distribution industry
90.27	Instruments and apparatus for physical or chemical analysis (for example polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes.	
90.28	Gas, liquid or electricity supply or production meters, including calibrating meters therefor.	
Ex 90.29*	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading No. 90.14 or 90.15; stroboscopes.	
	Ex 9029.10	Revolution counters, production counters, taximeters, mileometers, pedometers and the like
		Production counters
	Ex 9029.90	Parts and accessories
		For production counters

* Except products for use in civil aircraft

Ex 90.30*	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading No. 90.28; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionising radiations.	
	Ex 9030.10	Instruments and apparatus for measuring or detecting ionising radiations
		For use in the energy sector
		Other instruments and apparatus, for measuring or checking voltage, current, resistance or power, without a recording device:
	9030.31	Multimeters
	9030.39	Other
		Other instruments and apparatus
	Ex 9030.83[6]	Other, with a recording device
	For use in the energy sector	
	Ex 9030.89	Other
	For use in the energy sector	
	Ex 9030.90	Parts and accessories
	For use in the energy sector	
90.32*	Automatic regulating or controlling instruments and apparatus	

4. ANNEX EQ II

LIST OF ENERGY-RELATED EQUIPMENT

(In accordance with Article 1(4bis))

14. ANNEX BR

LIST OF CONTRACTING PARTIES WHICH SHALL NOT INCREASE ANY CUSTOMS DUTY OR OTHER CHARGE ABOVE THE LEVEL RESULTING FROM THEIR COMMITMENTS OR ANY PROVISIONS APPLICABLE TO THEM UNDER THE WTO AGREEMENT.

(In accordance with Article 29 (7))

[6] *Covered by 9030 81 in the 1992 version*

* Except products for use in civil aircraft

15. ANNEX BRQ

LIST OF CONTRACTING PARTIES WHICH SHALL NOT INCREASE ANY CUSTOMS DUTY OR OTHER CHARGE ABOVE THE LEVEL RESULTING FROM THEIR COMMITMENTS OR ANY PROVISIONS APPLICABLE TO THEM UNDER THE WTO AGREEMENT.

(In accordance with Article 29 (7))

ARTICLE 6

PROVISIONAL APPLICATION

(1) Each signatory which applies the Energy Charter Treaty provisionally in accordance with Article 45(1) and each Contracting Party agrees to apply this Amendment provisionally pending its entry into force for such signatory or Contracting Party to the extent that such provisional application is not inconsistent with its constitution, laws or regulations.

(2) (a) Notwithstanding paragraph (1):

(i) any signatory which applies the Energy Charter Treaty provisionally or Contracting Party may deliver to the Depository within 90 days from the date of the adoption of this Amendment by the Charter Conference a declaration that it is not able to accept the provisional application of this Amendment;

(ii) any signatory which does not apply the Energy Charter Treaty provisionally in accordance with Article 45(2) may deliver to the Depository not later than the date on which it becomes a Contracting Party or begins to apply the Treaty provisionally a declaration that it is not able to accept the provisional application of this Amendment.

The obligation contained in paragraph (1) shall not apply to a signatory or Contracting Party making such a declaration. Any such signatory or Contracting Party may at any time withdraw that declaration by written notification to the Depository.

(b) Neither a signatory or Contracting Party which makes a declaration in accordance with subparagraph (a) nor Investors of that signatory or Contracting Party may claim the benefits of provisional application under paragraph (1).

(3) Any signatory or Contracting Party may terminate its provisional application of this Amendment by written notification to the Depository of its intention not to ratify, accept or approve this Amendment. Termination of provisional application for any signatory or Contracting Party shall take effect upon the expiration of 60 days from the date on which such signatory's or Contracting Party's written notification is received by the Depository. Any signatory which terminates its provisional application of the Energy Charter Treaty in accordance with Article 45(3)(a) shall be considered as also having terminated its provisional application of this Amendment with the same date of effect.

ARTICLE 7

STATUS OF DECISIONS

The Decisions adopted in connection with the adoption of this Amendment are an integral part of the Energy Charter Treaty.

Annex 2

DECISIONS IN CONNECTION WITH THE ADOPTION OF THE AMENDMENT TO THE TRADE-RELATED PROVISIONS OF THE ENERGY CHARTER TREATY

1. A signatory which does not apply the Amendment adopted on 24 April 1998 provisionally may at the time that it takes action to apply that Amendment, whether on a definitive or a provisional basis, notify the Secretariat in writing that until it is listed in Annexes BR and BRQ, it will apply the Amendment as if all items of Energy Materials and Products and of Energy-Related Equipment continued to be listed in Annexes EM I and EQ I.

   The Amendment shall apply accordingly to such a signatory.

   Any signatory may at any time withdraw the notification referred to above in writing to the Secretariat.

2. The 'Final Provisions' of the Amendment shall be based on Part VIII, in particular Article 42, of the Energy Charter Treaty so far as relevant.

Signatories to the energy charter and their status as of 1st November 1998

	CH	ECT	P	TA
The Republic of Albania	✿	✿	✿	–
The Republic of Armenia	✿	✿	✿	–
Australia	✿	–	–	–
The Republic of Austria	✿	✿	✿	–
The Azerbaijani Republic	✿	✿	✿	–
The Kingdom of Belgium	✿	✿	✿	–
The Republic of Belarus	✿	–	–	–
The Republic of Bosnia-Herzegovina	✿	–	–	–
The Republic of Bulgaria	✿	✿	✿	–
Canada	✿	■	■	
The Republic of Croatia	✿	✿	✿	–
The Republic of Cyprus	✿	✿	✿	–
The Czech Republic	✿	✿	✿	–
The Kingdom of Denmark	✿	✿	✿	–
The Republic of Estonia	✿	✿	✿	–
The European Communities	✿	✿	✿	–
The Republic of Finland	✿	✿	✿	–
The French Republic	✿	–	–	–
The Republic of Georgia	✿	✿	–	–
The Federal Republic of Germany	✿	✿	✿	–
The Hellenic Republic	✿	✿	✿	–
The Republic of Hungary	✿	✿	✿	–
The Republic of Iceland	✿	–	–	–
Ireland	✿	–	–	–
The Italian Republic	✿	✿	✿	–
Japan	✿	–	–	–
The Republic of Kazakhstan	✿	✿	✿	–
The Republic of Kyrgystan	✿	✿	✿	–
The Republic of Latvia	✿	✿	–	–
The Principality of Liechtenstein	✿	✿	✿	–
The Republic of Lithuania	✿	✿	✿	–
The Grand Duchy of Luxembourg	✿	✿	✿	–
The Republic of Malta	✿	–	–	–
The Republic of Moldova	✿	✿	✿	–
Mongolia	✿	▲	▲	▲
The Kingdom of the Netherlands	✿	✿	✿	–
The Kingdom of Norway	✿	–	–	–
The Republic of Poland	✿	–	–	–
The Portuguese Republic	✿	✿	✿	–
Romania	✿	✿	✿	–
The Russian Federation	✿	–	–	–
The Slovak Republic	✿	✿	✿	–
The Republic of Slovenia	✿	✿	✿	–
The Kingdom of Spain	✿	✿	✿	–
The Kingdom of Sweden	✿	✿	✿	–
The Swiss Confederation	✿	✿	✿	–
The Republic of Taijikistan	✿	✿	✿	–
The former Yug. Republic of Macedonia	✿	✿	–	–
The Republic of Turkey	✿	✿	✿	–
Turkmenistan	✿	✿	✿	–
Ukraine	✿	–	–	–
The United Kingdom of Great Britain and Northern Ireland	✿	✿	✿	–
The United States of America	✿	■	■	
The Republic of Uzbekistan	✿	✿	✿	–

Notes:

CH: The Energy Charter

ECT: The Energy Charter Treaty

P: The Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects

TA: Trade Amendment

✿ signed the Energy Charter

✿ Contracting Parties to the Energy Charter Treaty and/or Protocol

_ Signatories to the Energy Charter Treaty and/or Protocol

▲ in the process of accession

■ did not sign the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects

_ adopted Trade Amendment

Agreement on the Conservation of African-Eurasian Migratory Water Birds, The Hague, 1995

Done at The Hague 16 June 1995

Entered into force 1 November 1999

Depositary: The Netherlands

Primary source citation: Copy of text provided by the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals

Final Act of the Negotiation Meeting to adopt the Agreement on the Conservation of African-Eurasian Migratory Waterbirds

The representatives of Range State Governments and one regional economic integration organization met in the Ministry of Foreign Affairs at The Hague, the Netherlands, from 12 to 16 June 1995 for the purpose of negotiating and adopting an Agreement on the Conservation of African-Eurasian Migratory Waterbirds, an AGREEMENT pursuant to Article IV, paragraph 3, of the Convention on the Conservation of Migratory Species of Wild Animals (CMS).

The Meeting was convened by the UNEP/CMS Secretariat, in its capacity as the Secretariat of the Convention, in collaboration with the Government of the Kingdom of the Netherlands. The following sixty-four Range States and one regional economic integration organization were represented:

Angola, Armenia, Austria, Belgium, Benin, Bulgaria, Burundi, Cameroon, Central African Republic, Chad, Croatia, Czech Republic, Denmark, Egypt, Equatorial Guinea, Estonia, Ethiopia, European Community, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Hungary, Ireland, Islamic Republic of Iran, Jordan, Kenya, Luxembourg, the Former Yugoslav Republic of Macedonia, Malawi, Mauritania, Republic of Moldova, Morocco, Mozambique, Namibia, Netherlands, Norway, Poland, Portugal, Romania, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Slovakia, South Africa, Spain, Sudan, Swaziland, Sweden, Switzerland, United Republic of Tanzania, Togo, Tunisia, Uganda, Ukraine, United Kingdom, Uzbekistan, Zambia, Zimbabwe.

The Governments of India and Pakistan attended the Meeting as observers.

Representatives of the following United Nations bodies, intergovernmental and non-governmental organizations also attended the Meeting as observers:

United Nations Environment Programme (UNEP), Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar Convention), Program for the Conservation of Arctic Flora and Fauna (CAFF), BirdLife International, Conseil International de la Chasse et de la Conservation du Gibier (CIC), European Nature Heritage Fund (EURONATUR), Fédération des Associations de Chasseurs de l'Union Européenne (FACE), Fondation Tour du Valat, International Waterfowl and Wetlands Research Bureau (IWRB), International Union for Conservation of Nature and Natural Resources (IUCN), Wildfowl and Wetlands Trust.

The Meeting elected as Chairman Mr. Jean Renault (Belgium), and Mr. Jean Ngog Nje (Cameroon) and Mr. Yaroslav Movchan (Ukraine) as Vice-Chairmen. The Secretary-General of the Meeting was Mr. Arnulf Muller-Helmbrecht (UNEP/CMS Secretariat).

The Meeting adopted, *mutatis mutandis*, the Rules of Procedure of the fourth Meeting of the Conference of the Parties to CMS (Nairobi, 1994).

The Meeting established the following Committees and Working Groups:

Credentials Committee: Guinea, Netherlands, Poland, Republic of Moldova, South Africa

Chairman: Mr. Ferdinand von der Assen, Netherlands

Working Group to discuss the Action Plan

Chairman: Mr. Jean Ngog Nje, Cameroon

Drafting Group on the Agreement

Chairman: Mr. Douglas Hykle, UNEP/CMS Secretariat

The Meeting adopted by consensus the Agreement on the Conservation of African-Eurasian Migratory Waterbirds in the English and French languages, appended as Annex I to this Final Act. The Meeting accepted with appreciation the offer of the Government of the Kingdom of the Netherlands to act as Depositary and to provide, at its own expense for the first three years from the date on which the Agreement is opened for signature, an interim Agreement secretariat, and to host the first session of the Meeting of the Parties following entry into force of the Agreement.

The Meeting took note of the provisions of Resolution 4.4, adopted by the fourth meeting of the Conference of the Parties to CMS (Nairobi, 1994) which, *inter alia*, resolves that Parties to certain Agreements concluded under the Convention should be invited to consolidate secretariat functions in a unit co-located with the Secretariat of the Convention, and that secretariats for individual Agreements should be financed entirely by their Parties.

The Meeting:

— invited the interim Agreement secretariat to prepare, to the extent possible, for submission to the Meeting of the Parties at its first session proposals concerning:

(a) amendment of the Action Plan with regard to species or families of species listed in Annex 2 to the Agreement;

(b) a review of the conservation status of populations covered by the Action Plan;

(c) criteria related to emergency situations;

(d) the Conservation Guidelines;

(e) a format for the reports of the Parties;

(f) a budget, financial rules, and any other matters relating to the financial arrangements for the Agreement;

(g) the establishment of the Technical Committee; and

(h) a logo for the Agreement;

— invited the Meeting of the Parties to consider at its first session the possibility of accepting from a given Party contributions in kind in lieu of contributions in cash to the budget of the Agreement, with the understanding that such contributions in kind from a given Party should be permitted only in exceptional circumstances and that the nature of the contribution must correspond to the needs and objectives of the Agreement;

— welcomed the intention of the UNEP/CMS Secretariat and the Ramsar Bureau to create a formal basis for their future co-operation and concerted actions, for the purpose of facilitating implementation of the Agreement, and recommended that the organs of the Agreement, once established, be included in these arrangements;

— encouraged co-operation with the Bern Convention, which also deals with migratory species;

— recalled the possibility of exceptions to the prohibition of taking, stipulated in Article III, paragraph 5, of the Convention on the Conservation of Migratory Species of Wild Animals, as they may relate to the protection measures provided for in paragraph 2.1.1 of the Action Plan; and

— agreed to interpret the term "eco-tourism", within the context of the Agreement, as "sustainable and environment-friendly tourism".

The Meeting took note of declarations made by the delegations of Belgium, Denmark, France, Switzerland and Zimbabwe, and a joint declaration made by Ethiopia, Namibia, South Africa, Sudan, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe, the texts of which are appended as Annex II to this Final Act.

The Meeting expressed a vote of thanks to the Government of the Kingdom of the Netherlands for hosting the Meeting, and to those Governments, organizations and companies which contributed financially to the Meeting.

The Agreement will be open for signature at the Ministry of Foreign Affairs of the Netherlands from 16 October 1995.

IN WITNESS WHEREOF the Representatives have signed this Final Act.

Done at The Hague, on the sixteenth day of June in the year One Thousand Nine Hundred and Ninety-Five.

In the name of the delegations of:

the Republic of Angola	[Signature]	de la République d'Angola
the Republic of Armenia	[Signature]	de la République d'Arménie
the Kingdom of Belgium	[Signature]	du Royaume de Belgique
the Republic of Benin	[Signature]	de la République du Bénin
the Republic of Bulgaria	[Signature]	de la République de Bulgarie
the Republic of Burundi	[Signature]	de la République du Burundi
the Republic of Cameroon	[Signature]	de la République du Cameroun
the Republic of Central Africa	[Signature]	de la République de Centrafricaine

the Republic of Chad	[Signature]	de la République du Tchad
the Republic of Croatia	[Signature]	de la République de Croatie
the Czech Republic	[Signature]	de la République tchèque
the Kingdom of Denmark	[Signature]	du Royaume du Danemark
the Arab Republic of Egypt	[Signature]	de la République arabe d'Egypte
the Republic of Equatorial Guinea	[Signature]	de la République de Guinée equatoriale
Ethiopia	[Signature]	d'Ethiopie
European Community	[Signature]	de la Communauté européenne
the Republic of Finland	[Signature]	de la République de Finlande
the French Republic	[Signature]	de la République française
the Republic of Gabon	[Signature]	de la République gabonaise
the Republic of Georgia	[Signature]	de la République de Géorgie
the Federal Republic of Germany	[Signature]	de la République fédérale d'Allemagne
the Republic of Ghana	[Signature]	de la République du Ghana
the Republic of Greece	[Signature]	de la République hellénique
the Republic of Guinea	[Signature]	de la République de Guinée
the Republic of Guinea-Bissau	[Signature]	de la République de Guinée-Bissao
the Republic of Hungary	[Signature]	de la République de Hongrie
the Islamic Republic of Iran	[Signature]	de la République islamique d'Iran
the Kingdom of Jordan	[Signature]	du Royaume hachémite de Jordanie

the Grand Duchy of Luxemburg	[Signature]	du Grand-Duché de Luxembourg
the Republic of Malawi	[Signature]	de la République du Malawi
the Islamic Republic of Mauritania	[Signature]	de la République islamique de Mauritania
the Republic of Moldova	[Signature]	de la République de Moldova
the Kingdom of Morocco	[Signature]	du Royaume du Maroc
the Republic of Mozambique	[Signature]	de la République du Mozambique
the Republic of Namibia	[Signature]	de la République de Namibie
the Kingdom of the Netherlands	[Signature]	du Royaume des Pays-Bas
the Kingdom of Norway	[Signature]	du Royaume de Norvège
the Republic of Poland	[Signature]	de la République de Pologne
the Portugese Republic	[Signature]	de la République portugaise
Romania	[Signature]	de la Roumanie
the Republic of Rwanda	[Signature]	de la République rwandaise
the Republic of Senegal	[Signature]	de la République du Sénégal
the Republic of South Africa	[Signature]	de la République d'Afrique du Sud
the Republic of Sudan	[Signature]	de la République du Soudan
the Kingdom of Swaziland	[Signature]	du Royaume du Swaziland
the Kingdom of Sweden	[Signature]	du Royaume de Suède
the Swiss Confederation	[Signature]	de la Confédération suisse
the United Republic of Tanzania	[Signature]	de la République unie de Tanzanie

the Republic of Togo	[Signature]	de la République togolaise
the Republic of Tunisia	[Signature]	de la République tunisienne
the Republic of Uganda	[Signature]	de la République de l'Ouganda
Ukraine	[Signature]	Ukraine
the United Kingdom	[Signature]	du Royaume-Uni
the Republic of Uzbekistan	[Signature]	de la République d'Ouzbékistan
the Republic of Zambia	[Signature]	de la République de Zambie
the Republic of Zimbabwe	[Signature]	de la République du Zimbabwe
the Republic of Kenya	[Signature]	de la République du Kenya
the Republic of Latvia	[Signature]	de la République de Lettonie

THE AGREEMENT ON THE CONSERVATION OF AFRICAN-EURASIAN MIGRATORY WATERBIRDS

AGREEMENT ON THE CONSERVATION OF AFRICAN-EURASIAN MIGRATORY WATERBIRD

THE CONTRACTING PARTIES,

RECALLING that the Convention on the Conservation of Migratory Species of Wild Animals, 1979, encourages international cooperative action to conserve migratory species;

RECALLING further that the first meeting of the Conference of the parties to the Convention, held in Bonn in October 1985, instructed the Secretariat of the Convention to take appropriate measures to develop an Agreement on Western Palearctic Anatidae;

CONSIDERING that migratory waterbirds constitute an important part of the global biological diversity which, in keeping with the spirit of the Convention on Biological Diversity, 1992, and Agenda 21 should be conserved for the benefit of present and future generations;

AWARE of the economic, social, cultural and recreational benefits accruing from the taking of certain species of migratory waterbirds and of the environmental, ecological, genetic, scientific, aesthetic, recreational, cultural, educational, social and economic values of waterbirds in general;

CONVINCED that any taking of migratory waterbirds must be conducted on a sustainable basis, taking into account the conservation status of the species concerned over their entire range as well as their biological characteristics;

CONSCIOUS that migratory waterbirds are particularly vulnerable because they migrate over long distances and are dependent on networks of wetlands that are decreasing in extent and becoming degraded through non-sustainable human activities, as is expressed in the Convention on Wetlands of International Importance, especially as Waterfowl Habitat, 1971;

RECOGNIZING the need to take immediate action to stop the decline of migratory waterbird species and their habitats in the geographic area of the African-Eurasian waterbird migration systems;

CONVINCED that the conclusion of a multilateral Agreement and its implementation through coordinated or concerted action will contribute significantly to the conservation of migratory waterbirds and their habitats in the most efficient manner, and will have ancillary benefits for many other species of animals and plants; and

ACKNOWLEDGING that effective implementation of such an Agreement will require assistance to be provided to some Range States for research, training and monitoring of migratory waterbird species and their habitats, for the management of those habitats as well as for the establishment or improvement of scientific and administrative institutions for the implementation of this Agreement,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Scope, Definitions and Interpretation

1. The geographic scope of this Agreement is the area of the migration systems of African-Eurasian waterbirds, as defined in Annex 1 to this Agreement, hereafter referred to as the "Agreement Area".

2. For the purpose of this Agreement:

(a) "Convention" means the Convention on the Conservation of Migratory Species of Wild Animals, 1979;
(b) "Convention Secretariat" means the body established under Article IX of the Convention;
(c) "Waterbirds" means those species of birds that are ecologically dependent on wetlands for at least part of their annual cycle, have a range which lies entirely or partly within the Agreement Area and are listed in Annex 2 to this Agreement;
(d) "Agreement secretariat" means the body established under Article VI, paragraph 7, subparagraph (b), of this Agreement;
(e) "Parties" means, unless the context otherwise indicates, Parties to this Agreement; and
(f) "Parties present and voting" means the Parties present and casting an affirmative or negative vote; those abstaining from voting shall not be counted amongst the Parties present and voting.

In addition, the terms defined in Article I, subparagraphs 1(a) to (k) of the Convention shall have the same meaning, *mutatis mutandis,* in this Agreement.

3. This Agreement is an AGREEMENT within the meaning of Article IV, paragraph 3, of the Convention.

4. The annexes to this Agreement form an integral part thereof. Any reference to the Agreement includes a reference to its annexes.

ARTICLE II

Fundamental Principles

1. Parties shall take co-ordinated measures to maintain migratory waterbird species in a favourable conservation status or to restore them to such a status. To this end, they shall apply within the limits of their national jurisdiction the measures prescribed in Article III, together with the specific actions determined in the Action Plan provided for in Article IV, of this Agreement.

2. In implementing the measures prescribed in paragraph 1 above, Parties should take into account the precautionary principle.

ARTICLE III

General Conservation Measures

1. The Parties shall take measures to conserve migratory waterbirds, giving special attention to endangered species as well as to those with an unfavourable conservation status.

2. To this end, the Parties shall:
(a) accord the same strict protection for endangered migratory waterbird species in the Agreement Area as is provided for under Article II, paragraphs 4 and 5, of the Convention;
(b) ensure that any use of migratory waterbirds is based on an assessment of the best available knowledge of their ecology and is sustainable for the species as well as for the ecological systems that support them;
(c) identify sites and habitats for migratory waterbirds occurring within their territory and encourage the protection, management, rehabilitation and restoration of these sites, in liaison with those bodies listed in Article IX, paragraphs (a) and (b) of this Agreement, concerned with habitat conservation;
(d) coordinate their efforts to ensure that a network of suitable habitats is maintained or, where appropriate, re-established throughout the entire range of each migratory waterbird species concerned, in particular where wetlands extend over the area of more than one Party to this Agreement;
(e) investigate problems that are posed or are likely to be posed by human activities and endeavour to implement remedial measures, including habitat rehabilitation and restoration, and compensatory measures for loss of habitat;
(f) cooperate in emergency situations requiring international concerted action and in identifying the species of migratory waterbirds which are the most vulnerable to these situations as well as cooperate in developing appropriate emergency procedures to provide increased protection to these species in such situations and in the preparation of guidelines to assist individual Parties in tackling these situations;
(g) prohibit the deliberate introduction of non-native waterbird species into the environment and take

all appropriate measures to prevent the unintentional release of such species if this introduction or release would prejudice the conservation status of wild flora and fauna; when non-native waterbird species have already been introduced, the Parties shall take all appropriate measures to prevent these species from becoming a potential threat to indigenous species;

(h) initiate or support research into the biology and ecology of migratory waterbirds including the harmonization of research and monitoring methods and, where appropriate, the establishment of joint or cooperative research and monitoring programmes;

(i) analyze their training requirements for, *inter alia,* migratory waterbird surveys, monitoring, ringing and wetland management to identify priority topics and areas for training and cooperate in the development and provision of appropriate training programmes;

(j) develop and maintain programmes to raise awareness and understanding of migratory waterbird conservation issues in general and of the particular objectives and provisions of this Agreement;

(k) exchange information and results from research, monitoring, conservation and education programmes; and

(l) cooperate with a view to assisting each other to implement this Agreement, particularly in the areas of research and monitoring.

ARTICLE IV

Action Plan and Conservation Guidelines

1. An Action Plan is appended as Annex 3 to this Agreement. It specifies actions which the Parties shall undertake in relation to priority species and issues, under the following headings, consistent with the general conservation measures specified in Article III of this Agreement:
   - (a) species conservation;
   - (b) habitat conservation;
   - (c) management of human activities;
   - (d) research and monitoring;
   - (e) education and information; and
   - (f) implementation.

2. The Action Plan shall be reviewed at each ordinary session of the Meeting of the Parties, taking into account the Conservation Guidelines.

3. Any amendment to the Action Plan shall be adopted by the Meeting of the Parties, taking into consideration the provisions of Article III of this Agreement.

4. The Conservation Guidelines shall be submitted to the Meeting of the Parties for adoption at its first session, and shall be regularly reviewed.

ARTICLE V

Implementation and Financing

1. Each Party shall:
   - (a) designate the Authority or Authorities to implement this Agreement which shall, *inter alia,* monitor all activities that may have impact on the conservation status of those migratory waterbird species of which the Party is a Range State;
   - (b) designate a contact point for the other Parties, and communicate without delay its name and address to the Agreement secretariat to be circulated forthwith to the other Parties; and
   - (c) prepare for each ordinary session of the Meeting of the Parties, beginning with the second session, a report on its implementation of the Agreement with particular reference to the conservation measures it has undertaken. The format of such reports shall be determined by the first session of the Meeting of the Parties and reviewed as may be necessary at any subsequent session of the Meeting of the Parties. Each report shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the ordinary session of the Meeting of the Parties for which it has been prepared, and copies shall be circulated forthwith to the other Parties by the Agreement secretariat.

2. (a) Each Party shall contribute to the budget of the Agreement in accordance with the United Nations scale of assessment. The contributions shall be restricted to a maximum of 25 per cent of the total budget for any Party that is a Range State. No regional economic integration organization shall be required to contribute more than 2.5 per cent of the administrative costs.
   (b) Decisions relating to the budget and any changes to the scale of assessment that may be found necessary shall be adopted by the Meeting of the Parties by consensus.

3. The Meeting of the Parties may establish a conservation fund from voluntary contributions of Parties or from any other source for the purpose of financing monitoring, research, training, and projects relating to the conservation, including protection and management, of migratory waterbirds.

4. Parties are encouraged to provide training and technical and financial support to other Parties on a multilateral or bilateral basis to assist them in implementing the provisions of this Agreement.

ARTICLE VI

Meeting of the Parties

1. The Meeting of the Parties shall be the decision-making body of this Agreement.

2. The Depositary shall, in consultation with the Convention Secretariat, convene a session of the Meeting of the Parties not later than one year after the date of the entry into force of this Agreement. Thereafter, the Agreement secretariat shall convene, in consultation with the Convention Secretariat, ordinary sessions of the Meeting of the Parties at intervals of not more than three years, unless the Meeting of the Parties decides otherwise. Where it is possible to do so, such sessions should be held in conjunction with the ordinary meetings of the Conference of the Parties to the Convention.

3. On the written request of at least one third of the Parties, the Agreement secretariat shall convene an extraordinary session of the Meeting of the Parties.

4. The United Nations, its Specialized Agencies, the International Atomic Energy Agency, any State not a Party to the Agreement, and the secretariats of international conventions concerned *inter alia* with the conservation, including protection and management, of migratory waterbirds may be represented by observers in sessions of the Meeting of the Parties. Any agency or body technically qualified in such conservation matters or in research on migratory waterbirds may also be represented at sessions of the Meeting of the Parties by observers, unless at least one third of the Parties present object.

5. Only Parties have the right to vote. Each Party shall have one vote, but regional economic integration organizations which are Parties to this Agreement shall, in matters within their competence, exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Agreement. A regional economic integration organization shall not exercise its right to vote if its Member States exercise theirs, and *vice versa*.

6. Unless provided otherwise in this Agreement, decisions of the Meeting of the Parties shall be adopted by consensus or, if consensus cannot be achieved, by a two-thirds majority of the Parties present and voting.

7. At its first session, the Meeting of the Parties shall:
   (a) adopt its rules of procedure by consensus;
   (b) establish an Agreement secretariat within the Convention Secretariat to perform the secretariat functions listed in Article VIII of this Agreement;
   (c) establish the Technical Committee provided for in Article VII of this Agreement;
   (d) adopt a format for the reports to be prepared according to Article V, paragraph 1, subparagraph (c), of this Agreement; and
   (e) adopt criteria to define emergency situations which require urgent conservation measures, and determine the modalities for assigning responsibility for action to be taken.

8. At each of its ordinary sessions, the Meeting of the Parties shall:
   (a) consider actual and potential changes in the conservation status of migratory waterbirds and

the habitats important for their survival, as well as the factors which may affect them;
(b) review the progress made and any difficulty encountered in the implementation of this Agreement;
(c) adopt a budget and consider any matters relating to the financial arrangements for this Agreement;
(d) deal with any matter relating to the Agreement secretariat and the membership of the Technical Committee;
(e) adopt a report for communication to the Parties to this Agreement and to the Conference of the Parties of the Convention; and
(f) determine the time and venue of the next session.

9. At any of its sessions, the Meeting of the Parties may:
(a) make recommendations to the Parties as it deems necessary or appropriate;
(b) adopt specific actions to improve the effectiveness of this Agreement and, as the case may be, emergency measures as provided for in Article VII, paragraph 4, of this Agreement;
(c) consider and decide upon proposals to amend this Agreement;
(d) amend the Action Plan in accordance with Article IV, paragraph 3, of this Agreement;
(e) establish such subsidiary bodies as it deems necessary to assist in the implementation of this Agreement, in particular for coordination with bodies established under other international treaties, conventions and agreements with overlapping geographic and taxonomic coverage; and
(f) decide on any other matter relating to the implementation of this Agreement.

ARTICLE VII

Technical Committee

1. The Technical Committee shall comprise:
(a) nine experts representing different regions of the Agreement Area, in accordance with a balanced geographical distribution;
(b) one representative from the International Union for Conservation of Nature and Natural Resources (IUCN), one from the International Waterfowl and Wetlands Research Bureau (IWRB) and one from the International Council for Game and Wildlife Conservation (CIC); and
(c) one expert from each of the following fields: rural economics, game management, and environmental law.

The procedure for the appointment of the experts, the term of their appointment and the procedure for designation of the Chairman of the Technical Committee shall be determined by the Meeting of the Parties. The Chairman may admit a maximum of four observers from specialized international inter-governmental and non-governmental organizations.

2. Unless the Meeting of the Parties decides otherwise, meetings of the Technical Committee shall be convened by the Agreement secretariat in conjunction with each ordinary session of the Meeting of the Parties and at least once between ordinary sessions of the Meeting of the Parties.

3. The Technical Committee shall:
(a) provide scientific and technical advice and information to the Meeting of the Parties and, through the Agreement secretariat, to Parties;
(b) make recommendations to the Meeting of the Parties concerning the Action Plan, implementation of the Agreement and further research to be carried out;
(c) prepare for each ordinary session of the Meeting of the Parties a report on its activities, which shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the session of the Meeting of the Parties, and copies shall be circulated forthwith by the Agreement secretariat to the Parties; and
(d) carry out any other tasks referred to it by the Meeting of the Parties.

4. Where in the opinion of the Technical Committee there has arisen an emergency which requires the adoption of immediate measures to avoid deterioration of the conservation status of one or more migratory waterbird species, the Technical Committee may request the Agreement secretariat to convene urgently a meeting of the Parties concerned. These Parties shall meet as soon as possible

thereafter to establish rapidly a mechanism to give protection to the species identified as being subject to particularly adverse threat. Where a recommendation has been adopted at such a meeting, the Parties concerned shall inform each other and the Agreement secretariat of measures they have taken to implement it, or of the reasons why the recommendation could not be implemented.

5. The Technical Committee may establish such working groups as may be necessary to deal with specific tasks.

ARTICLE VIII

Agreement Secretariat

The functions of the Agreement secretariat shall be:

(a) to arrange and service the sessions of the Meeting of the Parties as well as the meetings of the Technical Committee;

(b) to execute the decisions addressed to it by the Meeting of the Parties;

(c) to promote and coordinate activities under the Agreement, including the Action Plan, in accordance with decisions of the Meeting of the Parties;

(d) to liaise with non-Party Range States and to facilitate coordination between the Parties and with international and national organizations, the activities of which are directly or indirectly relevant to the conservation, including protection and management, of migratory waterbirds;

(e) to gather and evaluate information which will further the objectives and implementation of the Agreement and to arrange for appropriate dissemination of such information;

(f) to invite the attention of the Meeting of the Parties to matters pertaining to the objectives of this Agreement;

(g) to circulate copies of the reports of the Authorities referred to in Article V, paragraph 1, subparagraph (a), of this Agreement and of the Technical Committee, along with copies of the reports it must provide pursuant to paragraph (h) of this Article, to each Party not less than sixty days before the commencement of each ordinary session of the Meeting of the Parties;

(h) to prepare, on an annual basis and for each ordinary session of the Meeting of the Parties, reports on the work of the secretariat and on the implementation of the Agreement;

(i) to administer the budget for the Agreement and, if established, its conservation fund;

(j) to provide information for the general public concerning the Agreement and its objectives; and

(k) to perform such other functions as may be entrusted to it under the Agreement or by the Meeting of the Parties.

ARTICLE IX

Relations with International Bodies dealing with Migratory Waterbirds and their Habitats

The Agreement secretariat shall consult:

(a) on a regular basis, the Convention Secretariat and, where appropriate, the bodies responsible for the secretariat functions under Agreements concluded pursuant to Article IV, paragraphs 3 and 4, of the Convention which are relevant to migratory waterbirds, the Convention on Wetlands of International Importance, especially as Waterfowl Habitat, 1971, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973, the African Convention on the Conservation of Nature and Natural Resources, 1968, the Convention on the Conservation of European Wildlife and Natural Habitats, 1979, and the Convention on Biological Diversity, 1992, with a view to the Meeting of the Parties cooperating with the Parties to these conventions on all matters of common interest and, in particular, in the development and implementation of the Action Plan;

(b) the secretariats of other pertinent conventions and international instruments in respect of matters of common interest; and

(c) other organizations competent in the field of conservation, including protection and manage-

ment, of migratory waterbirds and their habitats, as well as in the fields of research, education and awareness raising.

ARTICLE X

Amendment of the Agreement

1. This Agreement may be amended at any ordinary or extraordinary session of the Meeting of the Parties.

2. Proposals for amendment may be made by any Party.

3. The text of any proposed amendment and the reasons for it shall be communicated to the Agreement secretariat not less than one hundred and fifty days before the opening of the session. The Agreement secretariat shall transmit copies forthwith to the Parties. Any comments on the text by the Parties shall be communicated to the Agreement secretariat not less than sixty days before the opening of the session. The Secretariat shall, as soon as possible after the last day for submission of comments, communicate to the Parties all comments submitted by that day.

4. An amendment to the Agreement other than an amendment to its annexes shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for those Parties which have accepted it on the thirtieth day after the date on which two thirds of the Parties to the Agreement at the date of the adoption of the amendment have deposited their instruments of acceptance of the amendment with the Depositary. For each Party which deposits an instrument of acceptance after the date on which two thirds of the Parties have deposited their instruments of acceptance, the amendment shall enter into force on the thirtieth day after the date on which it deposits its instrument of acceptance.

5. Any additional annexes and any amendment to an annex shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for all Parties on the ninetieth day after the date of its adoption by the Meeting of the Parties, except for Parties which have entered a reservation in accordance with paragraph 6 of this Article.

6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may by written notification to the Depositary enter a reservation with respect to an additional annex or an amendment to an annex. Such reservation may be withdrawn at any time by written notification to the Depositary, and thereupon the additional annex or the amendment shall enter into force for that Party on the thirtieth day after the date of withdrawal of the reservation.

ARTICLE XI

Effect of this Agreement on International Conventions and Legislation

1. The provisions of this Agreement do not affect the rights and obligations of any Party deriving from existing international treaties, conventions or agreements.

2. The provisions of this Agreement shall in no way affect the right of any Party to maintain or adopt stricter measures for the conservation of migratory waterbirds and their habitats.

ARTICLE XII

Settlement of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Agreement shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

ARTICLE XIII

Signature, Ratification, Acceptance, Approval, Accession

1. This Agreement shall be open for signature by any Range State, whether or not areas under its jurisdiction lie within the Agreement Area, or regional economic integration organization, at least one member of which is a Range State, either by:

(a) signature without reservation in respect of ratification, acceptance or approval; or

(b) signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. This Agreement shall remain open for signature at The Hague until the date of its entry into force.

3. This Agreement shall be open for accession by any Range State or regional economic integration organization mentioned in paragraph 1 above on and after the date of entry into force of the Agreement.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

ARTICLE XIV

Entry into Force

1. This Agreement shall enter into force on the first day of the third month after at least fourteen Range States or regional economic integration organizations, comprising at least seven from Africa and seven from Eurasia, have signed without reservation in respect of ratification, acceptance or approval, or have deposited their instruments of ratification, acceptance or approval in accordance with Article XIII of this Agreement.

2. For any Range State or regional economic integration organization which has:
   (a) signed without reservation in respect of ratification, acceptance, or approval;
   (b) ratified, accepted, or approved; or
   (c) acceded to

this Agreement after the date on which the number of Range States and regional economic integration organizations necessary to enable entry into force have signed it without reservation or have ratified, accepted or approved it, this Agreement shall enter into force on the first day of the third month following the signature without reservation, or deposit, by that State or organization, of its instrument of ratification, acceptance, approval or accession.

ARTICLE XV

Reservations

The provisions of this Agreement shall not be subject to general reservations. However, a specific reservation may be entered by any State or regional economic integration organization on signature without reservation in respect of ratification, acceptance or approval or, as the case may be, on depositing its instrument of ratification, acceptance, approval or accession in respect of any species covered by the Agreement or any specific provision of the Action Plan. Such a reservation may be withdrawn at any time by the State or regional economic integration organization which had entered it, by notification in writing to the Depositary, such a State or organization shall not be bound by the provisions which are the object of the reservation until thirty days after the date on which the reservation has been withdrawn.

ARTICLE XVI

Denunciation

Any Party may denounce this Agreement by written notification to the Depositary at any time. The denunciation shall take effect twelve months after the date on which the Depositary has received the notification.

ARTICLE XVII

Depositary

1. The original of this Agreement, in the Arabic, English, French and Russian languages, each version being equally authentic, shall be deposited with the Government of the Kingdom of the Netherlands which shall be the Depositary. The Depositary shall transmit certified copies of these versions to all States and regional economic integration organizations referred to in Article XIII, paragraph 1, of this Agreement, and to the Agreement secretariat after it has been established.

2. As soon as this Agreement enters into force, a certified copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

3. The Depositary shall inform all States and regional economic integration organizations that have signed or acceded to the Agreement, and the Agreement secretariat, of:
   (a) any signature;
   (b) any deposit of instruments of ratification, acceptance, approval or accession;
   (c) the date of entry into force of this Agreement and of any additional annex as well as of any amendment to the Agreement or to its annexes;
   (d) any reservation with respect to an additional annex or to an amendment to an annex;
   (e) any notification of withdrawal of a reservation; and
   (f) any notification of denunciation of the Agreement.

The Depositary shall transmit to all States and regional economic integation organizations that have signed or acceded to this Agreement, and to the Agreement secretariat, the text of any reservation, of any additional annex and of any amendment to the Agreement or to its annexes.

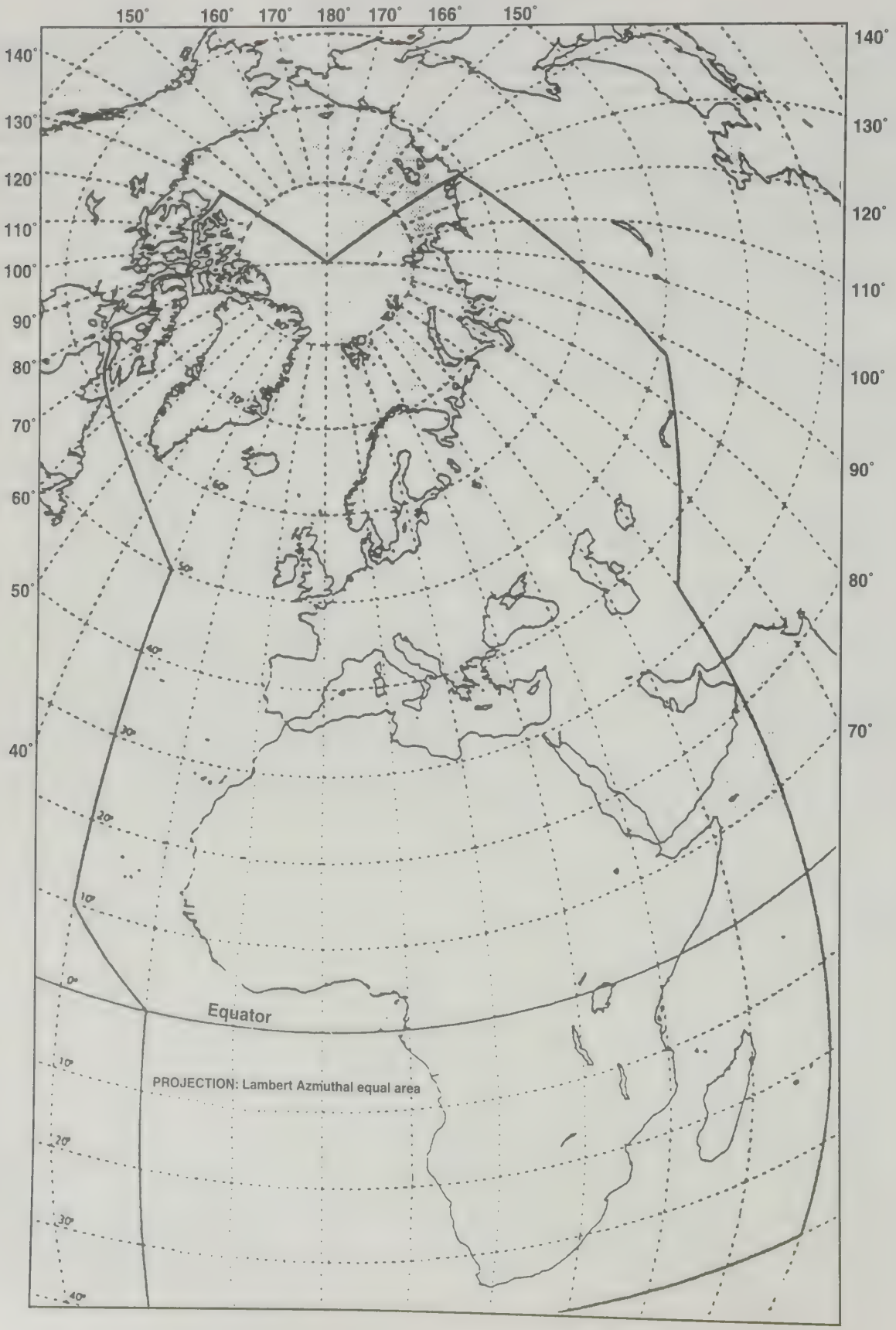
In witness whereof the undersigned, being duly authorized to that effect, have signed this Agreement.

Annex 1

Definition of the Agreement Area

The boundary of the Agreement aarea is defined as follows. from the North Pole south along the 130 W line of longitude to, 75°N, thence east and southeast through Viscount Melville Sound, Prince Regent Inlet, the Gulf of Boothia, Foxe Basin, Foxe Channel and Hudson Strait to a point in the northwest Atlantic at 60 N, 60 W; thence southeast through the northwest Atlantic to a point at 50 N, 30°W; thence south along the 30 W line of longitude to 10°N; thence southeast to the Equator at 20°W; thence south along the 20 W line of longitude to, 40 S thence east along the 40°S line of latitude to 60°E thence north along the 60 E line of longtitude to 35 N thence east-northeast on a great circle to a point in the western Altai at 49°N, 87°27'E; thence northeast on a great circle to the coast of the Arctic Ocean at 130°E thence north along the 130 E of longtitude to the North Pole. The outline of the Agreement Area is illustrated on the following map.

Annex 1 a:
Map of the Agreement Area



Annex 2

Waterbird Species to which this Agreement Applies

GAVIIDAE	
Gavia stellata	Red-throated Diver
Gavia arctica	Black-throated Diver
Gavia immer	Great Northern Diver
Gavia adamsii	White-billed Diver
PODICIPEDIDAE	
Podiceps grisegena	Red-necked Grebe
Podiceps auritus	Slavonian Grebe
PELECANIDAE	
Pelecanus onocrotalus	Great White Pelican
Pelecanus crispus	Dalmatian Pelican
PHALACROCORACIDAE	
Phalacrocorax pygmaeus	Pygmy Cormorant
Phalacrocorax nigrogularis	Socotra Cormorant
ARDEIDAE	
Egretta vinaceigula	Slaty Egret
Ardea purpurea	Purple Heron
Casmerodius albus	Great Egret
Ardeola idae	Madagascar Pond-Heron
Ardeola rufiventris	Rufous-bellied Heron
Ixobrychus minutus	Little Bittern
Ixobrychus sturmii	Dwarf Bittern
Botaurus stellaris	Great Bittern
CICONIIDAE	
Mycteria ibis	Yellow-billed Stork
Ciconia nigra	Black Stork
Ciconia episcopus	Woolly-necked Stork
Ciconia ciconia	White Stork
THRESKIORNITHIDAE	
Plegadis falcinellus	Glossy Ibis
Geronticus eremita	Waldrapp
Threskiornis aethiopicus	Sacred Ibis
Platalea leucorodia	Eurasian Spoonbill
Platalea alba	African Spoonbill
PHOENICOPTERIDAE	
Phoenicopterus ruber	Greater Flamingo
Phoenicopterus minor	Lesser Flamingo
ANATIDAE	
Dendrocygna bicolor	Fulvous Whistling-Duck
Dendrocygna viduata	White-faced Whistling-Duck
Thalassornis leuconotus	White-backed Duck

Oxyura leucocephala	White-headed Duck
Cygnus olor	Mute Swan
Cygnus cygnus	Whooper Swan
Cygnus columbianus	Bewick's Swan
Anser brachyrhynchus	Pink-footed Goose
Anser fabalis	Bean Goose
Anser albifrons	Greater White-fronted Goose
Anser erythropus	Lesser White-fronted Goose
Anser anser	Greylag Goose
Branta leucopsis	Barnacle Goose
Branta bernicla	Brent Goose
Branta ruficollis	Red-breasted Goose
Alopochen aegyptiacus	Egyptian Goose
Tadorna ferruginea	Ruddy Shelduck
Tadorna cana	South African Shelduck
Tadorna tadorna	Common Shelduck
Plectropterus gambensis	Spur-winged Goose
Sarkidiornis melanotos	Comb Duck
Nettapus auritus	African Pygmy-goose
Anas penelope	Eurasian Wigeon
Anas strepera	Gadwall
Anas crecca	Common Teal
Anas capensis	Cape Teal
Anas platyrhynchos	Mallard
Anas undulata	Yellow-billed Duck
Anas acuta	Northern Pintail
Anas erythrorhyncha	Red-billed Duck
Anas hottentota	Hottentot Teal
Anas querquedula	Garganey
Anas clypeata	Northern Shoveler
Marmaronetta angustirostris	Marbled Teal
Netta rufina	Red-crested Pochard
Netta erythrophthalma	Southern Pochard
Aythya ferina	Common Pochard
Aythya nyroca	Ferruginous Pochard
Aythya fuligula	Tufted Duck
Aythya marila	Greater Scaup
Somateria mollissima	Common Eider
Somateria spectabilis	King Eider
Polysticta stelleri	Steller's Eider
Clangula hyemalis	Long-tailed Duck
Melanitta nigra	Common Scoter
Melanitta fusca	Velvet Scoter
Bucephala clangula	Common Goldeneye
Mergellus albellus	Smew
Mergus serrator	Red-breasted Merganser
Mergus merganser	Goosander
GRUIDAE	
Grus leucogeranus	Siberian Crane
Grus virgo	Demoiselle Crane
Grus paradisea	Blue Crane
Grus carunculatus	Wattled Crane
Grus grus	Common Crane

RALLIDAE	
Sarothrura boehmi	Streaky-breasted Flufftail
Porzana paroa	Little Crake
Porzana pusilla	Baillon's Crake
Porzana porzana	Spotted Crake
Aenigmatolimnas marginalis	Striped Crake
Fulica atra (Black Sea/Mediterranean)	Common Coot
DROMADIDAE	
Dromas ardeola	Crab Plover
RECURVIROSTRIDAE	
Himantopus himantopus	Black-winged Stilt
Recurvirostra avosetta	Pied Avocet
GLAREOLIDAE	
Glareola practincola	Collared Pratincole
Glareola nordmanni	Black-winged Pratincole
CHARADRIIDAE	
Pluvialis apricaria	Eurasian Golden Plover
Pluvialis squatarola	Grey Plover
Charadrius hiaticula	Common Ringed Plover
Charadrius dubius	Little Ringed Plover
Charadrius pecuarius	Kittlitz's Plover
Charadrius tricollaris	Three-banded Plover
Charadrius forbesi	Forbes' Plover
Charadrius pallidus	Chestnut-banded Plover
Charadrius alexandrinus	Kentish Plover
Charadrius marginatus	White-fronted Plover
Charadrius mongolus	Mongolian Plover
Charadrius leschenaultii	Greater Sandplover
Charadrius asiaticus	Caspian Plover
Eudromias morinellus	Eurasian Dotterel
Vanellus vanellus	Northern Lapwing
Vanellus spinosus	Spur-winged Plover
Vanellus albiceps	White-headed Lapwing
Vanellus senegallus	Senegal Lapwing
Vanellus lugubris	Wattled Lapwing
Vanellus melanopterus	Black-winged Lapwing
Vanellus coronatus	Crowned Lapwing
Vanellus superciliosus	Brown-chested Lapwing
Vanellus gregarious	Sociable Plover
Vanellus leucurus	White-tailed Plover
SCOLOPACIDAE	
Gallinago media	Great Snipe
Gallinago gallinago	Common Snipe
Lymnocryptes minimus	Jack Snipe
Limosa limosa	Black-tailed Godwit
Limosa lapponica	Bar-tailed Godwit
Numenius phaeopus	Whimbrel
Numenius tenuirostris	Slender-billed Curlew
Numenius arquata	Eurasian Curlew

Tringa erythropus	Spotted Redshank
Tringa totanus	Common Redshank
Tringa stagnatilis	Marsh Sandpiper
Tringa nebularia	Common Greenshank
Tringa ochropus	Green Sandpiper
Tringa glareola	Wood Sandpiper
Tringa cinerea	Terek Sandpiper
Tringa hypoleucos	Common Sandpiper
Arenaria interpres	Ruddy Turnstone
Calidris tenuirostris	Great Knot
Calidris canutus	Red Knot
Calidris alba	Sanderling
Calidris minuta	Little Stint
Calidris temminckii	Temminck's Stint
Calidris maritima	Purple Sandpiper
Calidris alpina	Dunlin
Calidris ferruginea	Curlew Sandpiper
Limicola falcinellus	Broad-billed Sandpiper
Philomachus pugnax	Ruff
Phalaropus lobatus	Red-necked Phalarope
Phalaropus fulicaria	Grey Phalarope

LARIDAE

Larus leucopthalmus	White-eyed Gull
Larus hemprichii	Sooty Gull
Larus audouinii	Audouin's Gull
Larus armenicus	Armenian Gull
Larus ichthyaetus	Great Black-headed Gull
Larus genei	Slender-billed Gull
Larus melanocephalus	Mediterranean Gull
Sterna nilotica	Gull-billed Tern
Sterna caspia	Caspian Tern
Sterna maxima	Royal Tern
Sterna bengalensis	Lesser Crested Tern
Sterna bergii	Great Crested Tern
Sterna sandvicensis	Sandwich Tern
Sterna dougallii	Roseate Tern
Sterna hirundo	Common Tern
Sterna paradisae	Arctic Tern
Sterna albifrons	Little Tern
Sterna saundersi	Saunders' Tern
Sterna balaenarum	Damara Tern
Sterna repressa	White-cheeked Tern
Chlidonias leucopterus	White-winged Tern
Chlidonias niger	Black Tern

Annex 3

ACTION PLAN

1. Field of Application

1.1 The Action Plan is applicable to the populations of migratory waterbirds listed in Table 1 to this Annex (hereafter referred to as "Table 1").

1.2 Table 1 forms an integral part of this Annex. Any reference to this Action Plan includes a reference to Table 1.

2. Species Conservation

2.1 Legal measures

2.1.1 Parties with populations listed in column A of Table 1 shall provide protection to those populations listed in accordance with Article III, paragraph 2(a), of this Agreement. Such Parties shall in particular and subject to paragraph 2.1.3 below:

(a) prohibit the taking of birds and eggs of those populations occurring in their territory;

(b) prohibit deliberate disturbance in so far as such disturbance would be significant for the conservation of the population concerned; and

(c) prohibit the possession or utilization of, and trade in, birds or eggs of those populations which have been taken in contravention of the prohibitions laid down pursuant to subparagraph (a) above, as well as the possession or utilization of, and trade in, any readily recognizable parts or derivatives of such birds and their eggs.

By way of exception for those populations listed in Categories 2 and 3 in Column A only and which are marked by an asterisk, hunting may continue on a sustainable use basis where hunting of such populations is a long-established cultural practice. This sustainable use shall be conducted within the framework of special provisions of a species action plan at the appropriate international level.

2.1.2 Parties with populations listed in Table 1 shall regulate the taking of birds and eggs of all populations listed in column B of Table 1. The object of such legal measures shall be to maintain or contribute to the restoration of those populations to a favourable conservation status and to ensure, on the basis of the best available knowledge of population dynamics, that any taking or other use is sustainable. Such legal measures subject to paragraph 2.13 below, shall in particular:

(a) prohibit the taking of birds belonging to the populations concerned during their various stages of reproduction and rearing and during their return to their breeding grounds if the taking has an unfavorable impact on the conservation status of the population concerned;

(b) regulate the modes of taking;

(c) establish limits on taking, where appropriate, and provide adequate controls to ensure that these limits are observed; and

(d) prohibit the possession or utilization of, and trade in, birds and eggs of the populations which have been taken in contravention of any prohibition laid down pursuant to the provisions of this paragraph, as well as the possession or utilization of, and trade in, any parts of such birds and their eggs.

2.1.3 Parties may grant exemptions to the prohibitions laid down in paragraphs 2.1.1 and 2.1.2, irrespective of the provisions of Article III, paragraph 5, of the Convention, where there is no other satisfactory solution, for the following purposes:

(a) to prevent serious damage to crops, water and fisheries;

(b) in the interests of air safety or other overriding public interests;

(c) for the purpose of research and education, of re-establishment and for the breeding necessary for these purposes;

(d) to permit under strictly supervised conditions, on a selective basis and to a limited extent, the taking and keeping or other judicious use of certain birds in small numbers; and

(e) for the purpose of enhancing the propagation or survival of the populations concerned.

Such exemptions shall be precise as to the content and limited in space and time and shall not operate to the detriment of the populations listed in Table 1. Parties shall as soon as possible inform the Agreement secretariat of any exemptions granted pursuant to this provision.

2.2 **Single Species Action Plans**

2.2.1 Parties shall cooperate with a view to developing and implementing international single species action plans for populations listed in Category 1 of Column A of Table 1 as a priority and for those populations listed with an asterisk in Column A of Table 1. The Agreement secretariat shall coordinate the development, harmonization and implementation of such plans.

2.2.2 Parties shall prepare and implement national single species action plans for the populations listed in Column A of Table 1 with a view to improving their overall conservation status. This action plan shall include special provisions for those populations marked with an asterisk. When appropriate, the problem of accidental killing of birds by hunters as a result of incorrect identification of the species should be considered.

2.3 **Emergency Measures**

Parties shall, in close cooperation with each other whenever possible and relevant, develop and implement emergency measures for populations listed in Table 1, when exceptionally unfavourable or endangering conditions occur anywhere in the Agreement Area.

2.4 **Re-establishments**

Parties shall exercise the greatest care when re-establishing populations listed in Table 1 into parts of their traditional range where they no longer exist. They shall endeavour to develop and follow a detailed re-establishment plan based on appropriate scientific studies. Re-establishment plans should constitute an integral part of national and, where appropriate, international single species action plans. A re-establishment plan should include assessment of the impact on the environment and shall be made widely available. Parties shall inform the Agreement secretariat, in advance, of all re-establishment programme for populations listed in Table 1.

2.5 **Introductions**

2.5.1 Parties shall, if they consider it necessary, prohibit the introduction of non-native species of animals and plants which may be detrimental to the populations listed in Table 1.

2.5.2 Parties shall, if they consider it necessary, require the taking of appropriate precautions to avoid the accidental escape of captive birds belonging to non-native species.

2.5.3 Parties shall take measures to the extent feasible and appropriate, including taking, to ensure that when non-native species or hybrids thereof have already been introduced into their territory, those species or their hybrids do not pose a potential hazard to the populations listed in Table 1.

3. Habitat Conservation

3.1 Habitat Inventories

3.1.1 Parties, in liaison where appropriate with competent international organizations, shall undertake and publish national inventories of the habitats within their territory which are important to the populations listed in Table 1.

3.1.2 Parties shall endeavour, as a matter of priority, to identify all sites of international or national importance for populations listed in Table 1.

3.2 Conservation of Areas

3.2.1 Parties shall endeavour to continue establishing protected areas to conserve habitats important for the populations listed in Table 1, and to develop and implement management plans for these areas.

3.2.2 Parties shall endeavour to give special protection to those wetlands which meet internationally accepted criteria of international importance.

3.2.3 Parties shall endeavour to make wise and sustainable use of all of the wetlands in their territory. In particular they shall endeavour to avoid degradation and loss of habitats that support populations listed in Table 1 through the introduction of appropriate regulations or standards and control measures. In particular, they shall endeavour to:

(a) ensure, where practicable, that adequate statutory controls are in place, relating to the use of agricultural chemicals, pest control procedures and the disposal of waste water, which are in accordance with international norms, for the purpose of minimizing their adverse impacts on the populations listed in Table 1; and

(b) prepare and distribute information materials, in the appropriate languages, describing such regulations, standards and control measures in force and their benefits to people and wildlife.

3.2.4 Parties shall endeavour to develop strategies, according to an ecosystem approach, for the conservation of the habitats of all populations listed in Table 1, including the habitats of those populations that are dispersed.

3.3 Rehabilitation and Restoration

Parties shall endeavour to rehabilitate or restore, where feasible and appropriate, areas which were previously important for the populations listed in Table 1.

4. Management of Human Activities

4.1 Hunting

4.1.1 Parties shall cooperate to ensure that their hunting legislation implements the principle of sustainable use as envisaged in this Action Plan, taking into account the full geographical range of the waterbird populations concerned and their life history characteristics.

4.1.2 The Agreement secretariat shall be kept informed by the Parties of their legislation relating to the hunting of populations listed in Table 1.

4.1.3 Parties shall cooperate with a view to developing a reliable and harmonized system for the collection of harvest data in order to assess the annual harvest of populations listed in Table 1. They shall provide the Agreement secretariat with estimates of the total annual take for each population, when available.

4.1.4 Parties shall endeavour to phase out the use of lead shot for hunting in wetlands by the year 2000.

4.1.5 Parties shall develop and implement measures to reduce, and as far as possible eliminate, the use of poisoned baits.

4.1.6 Parties shall develop and implement measures to reduce, and as far as possible eliminate, illegal taking.

4.1.7 Where appropriate, Parties shall encourage hunters, at local, national and international levels, to form clubs or organizations to coordinate their activities and to help ensure sustainability.

4.1.8 Parties shall, where appropriate, promote the requirement of a proficiency test for hunters, including among other things, bird identification.

4.2 **Eco-tourism**

4.2.1 Parties shall encourage, where appropriate but not in the case of core zones of protected areas, the elaboration of cooperative programmes between all concerned to develop sensitive and appropriate eco-tourism at wetlands holding concentrations of populations listed in Table 1.

4.2.2 Parties, in cooperation with competent international organisations, shall endeavour to evaluate the costs, benefits and other consequences that can result from eco-tourism at selected wetlands with concentrations of populations listed in Table 1. They shall communicate the results of any such evaluations to the Agreement secretariat.

4.3 **Other Human Activities**

4.3.1 Parties shall assess the impact of proposed projects which are likely to lead to conflicts between populations listed in Table 1 that are in the areas referred to in paragraph 3.2 and human interests, and shall make the results of the assessment publicly available.

4.3.2 Parties shall endeavour to gather information on the damage, in particular to crops, caused by populations listed in Table 1, and report the results to the Agreement secretariat.

4.3.3 Parties shall cooperate with a view to identifying appropriate techniques to minimize damage, or to mitigate the effects of damage, in particular to crops, caused by populations listed in Table 1, drawing on the experience gained elsewhere in the world.

4.3.4 Parties shall cooperate with a view to developing single species action plans for populations which cause significant damage, in particular to crops. The Agreement secretariat shall coordinate the development and harmonization of such plans.

4.3.5 Parties shall, as far as possible, promote high environmental standards in the planning and construction of structures to minimize their impact on populations listed in Table 1. They should consider steps to minimize the impact of structures already in existence where it becomes evident that they constitute a negative impact for the populations concerned.

4.3.6 In cases where human disturbance threatens the conservation status of waterbird populations listed in Table 1, Parties should endeavour to take measures to limit the level of threat. Appropriate measures might include, *inter alia*, the establishment of disturbance-free zones in protected areas where public access is not permitted.

5. **Research and Monitoring**

5.1 Parties shall endeavour to carry out survey work in poorly known areas, which may hold important concentrations of the populations listed in Table 1. The results of such surveys shall be disseminated widely.

5.2 Parties shall endeavour to monitor the populations listed in Table 1. The results of such monitoring shall be published or sent to appropriate international organizations, to enable reviews of population status or trends.

5.3 Parties shall cooperate to improve the measurement of bird population trends as a criterion for describing the status of such populations.

5.4 Parties shall cooperate with a view to determining the migration routes of all populations listed in Table 1, using available knowledge of breeding and non-breeding season distributions and census results, and by participating in coordinated ringing programmes.

5.5 Parties shall endeavour to initiate and support joint research projects into the ecology and population dynamics of populations listed in Table 1 and their habitats, in order to determine their specific requirements as well as the techniques which are the most appropriate for their conservation and management.

5.6 Parties shall endeavour to undertake studies on the effects of wetland loss and degradation and disturbance on the carrying capacity of wetlands used by the populations listed in Table 1 and on the migration patterns of such populations.

5.7 Parties shall endeavour to undertake studies on the impact of hunting and trade on the populations listed in Table 1 and on the importance of these forms of utilization to the local and national economy.

5.8 Parties shall endeavour to cooperate with relevant international organisations and to support research and monitoring projects.

6. **Education and Information**

6.1 Parties shall, where necessary, arrange for training programmes to ensure that personnel responsible for the implementation of this Action Plan have an adequate knowledge to implement it effectively.

6.2 Parties shall cooperate with each other and the Agreement secretariat with a view to developing training programmes and exchanging resource materials.

6.3 Parties shall endeavour to develop programmes, information materials and mechanisms to improve the level of awareness of the general public with regard to the objectives, provisions and contents of this Action Plan. In this regard, particular attention shall be given to those people living in and around important wetlands, to users of these wetlands (hunters, fishermen, tourists, etc.) and to local authorities and other decision makers.

6.4 Parties shall endeavour to undertake specific awareness campaigns for the conservation of the populations listed in Table 1.

7. **Implementation**

7.1 When implementing this Action Plan, Parties shall, when appropriate, give priority to those populations listed in Column A of Table 1.

7.2 Where, in the case of populations listed in Table 1, more than one population of the same species occurs on the territory of a Party, that Party shall apply conservation measures appropriate to the population or populations that have the poorest conservation status.

7.3 The Agreement secretariat, in coordination with the Technical Committee and with the assistance of experts from Range States, shall coordinate the development of conservation guidelines in accordance with Article IV, paragraph 4, of this Agreement to assist the Parties in the implementation of this Action Plan. The Agreement secretariat shall ensure, where possible, coherence with guidelines approved under other international instruments. These conservation guidelines shall aim at introducing the principle of sustainable use. They shall cover, *inter alia*:

(a) single species action plans;
(b) emergency measures;
(c) preparation of site inventories and habitat management methods;
(d) hunting practices;
(e) trade in waterbirds;
(f) tourism;
(g) reducing crop damage; and
(h) a waterbird monitoring protocol.

7.4 The Agreement secretariat, in coordination with the Technical Committee and the Parties, shall prepare a series of international reviews necessary for the implementation of this Action Plan, including:

(a) reports on the status and trends of populations;
(b) gaps in information from surveys;
(c) the networks of sites used by each population, including reviews of the protection status of each site as well as of the management measures taken in each case;
(d) pertinent hunting and trade legislation in each country relating to species listed in Annex 2 to this Agreement;
(e) the stage of preparation and implementation of single species action plans;
(f) re-establishment projects; and
(g) the status of introduced non-native waterbird species and hybrids thereof.

7.5 The Agreement secretariat shall endeavour to ensure that the reviews mentioned in paragraph 7.4 are updated at intervals of not more than three years.

7.6 The Technical Committee shall assess the guidelines and reviews prepared under paragraphs 7.3 and 7.4, and shall formulate draft recommendations and resolutions relating to their development, content and implementation for consideration at sessions of the Meeting of the Parties.

7.7 The Agreement secretariat shall regularly undertake a review of potential mechanisms for providing additional resources (funds and technical assistance) for the implementation of this Action Plan, and shall make a report to each ordinary session of the Meeting of the Parties.

Table 1

STATUS OF THE POPULATIONS OF MIGRATORY WATERBIRDS

KEY TO CLASSIFICATION

The following key to Table 1 is a basis for implementation of the Action Plan:

Column A

Category 1:
(a) Species which are included in Appendix I to the Convention;
(b) Species which are listed as threatened in the 1994 IUCN Red List of Threatened Animals (Groombridge 1993); or
(c) Populations which number less than around 10,000 individuals.

Category 2: Populations numbering between 10,000 and around 25,000 individuals.

Category 3: Populations numbering between around 25,000 and around 100,000 individuals and considered to be at risk as a result of:

(a) concentration onto a small number of sites at any stage of their annual cycle;
(b) dependence on a habitat type which is under severe threat;
(c) showing significant long-term decline; or
(d) showing extreme fluctuations in population size or trend.

For species listed in Categories 2 and 3, above, see paragraph 2.1.1 of this Annex.

Column B

Category 1: Populations numbering between around 25,000 and around 100,000 individuals and which do not fulfill the conditions in respect of Column A, as described above.

Category 2: Populations numbering more than around 100,000 individuals and considered to be in need of special attention as a result of :

(a) concentration onto a small number of sites at any stage of their annual cycle;
(b) dependence on a habitat type which is under severe threat;
(c) showing significant long-term decline; or
(d) showing large fluctuations in population size or trend.

Column C

Category 1: Populations numbering more than 100,000 individuals which could significantly benefit from international cooperation and which do not fulfill the conditions in respect of either Column A or B, above.

REVIEW OF TABLE 1

This Table shall be:

(a) reviewed regularly by the Technical Committee in accordance with Article VII, paragraph 3(b), of this Agreement; and

(b) amended as necessary by the Meeting of the Parties, in accordance with Article VI, paragraph 9(d) of this Agreement, in light of the conclusions of such reviews.

KEY TO ABBREVIATIONS AND SYMBOLS

bre :	breeding
win:	wintering
N:	Northern
E:	Eastern
S:	Southern
W:	Western
NE:	Northeastern
NW:	Northwestern
SE:	Southeastern
SW:	Southwestern

[1]: Population status unknown. Conservation status estimated.
*: See paragraph 2.1.1

NOTES

1. The population data used to compile Table 1 as far as possible corresponds to the number of individuals in the potential breeding stock in the Agreement Area. The status is based on the best available published population estimates.

2. Suffixes (bre) or (win) in population listings are solely aids to population identification. They do not indicate seasonal restrictions to actions in respect of these populations under this Agreement and Action Plan.

	A	B	C
Mycteria ibis			
Entire population		1	
Ciconia nigra			
W Africa/W Europe	1c		
Central/E Europe (bre)	2		
Ciconia episcopus			
Tropical Africa (C.e. microscelis)		1	
Ciconia ciconia			
S Africa (C. c. ciconia)	1c		
NW Africa/W Europe (bre) (C. c. ciconia)	3b		
Central/E Europe (bre) (C. c. ciconia)		2c	
W Asia (bre) (C. c. ciconia)	3b		
Plegadis falcinellus			
Subsaharan Africa (P. f. falcinellus)			1[1]
W Africa/Europe (P. f. falcinellus)		1	
E Africa/SW Asia (P. f. falcinellus)	2*		
Geronticus eremita			
Morocco	1a		
SW Asia	1a		
Threskrionis aethiopicus			
Subsaharan Africa (T. a. aethiopicus)			1
Iraq/Iran (T. a. aethiopicus)	1c		
Platalea leucorodia			
E Atlantic (P. l. leucordia)	1c		
Central/SE Europe (bre) (P. l. leucorodia)	2		
Red Sea (P. l. archeri)	1c		
SW/S Asia (win) (P. l. major)	2		
Platalea alba			
Entire population	2*		
Dendrocygna bicolor			
Africa			1
Dendrocygna viduata			
Africa			1
Thalassornis leuconotus			
E/S Africa (T. l. leuconotus)	2*		
W Africa (T. l. leuconotus)	1c		
Oxyura leucocephala			
W Mediterranean	1a		
E Mediterranean/W Asia	1a		
Cygnus olor			
NW Europe		2d	
Black Sea (win)	2		
Caspian Sea (win)		2a & 2d	
Cygnus cygnus			
Iceland (bre)	2		
NW Europe (win)		1	
Black Sea (win)	2		
W Asia (win)	2[1]		
Cygnus columbianus			
Europe (win) (C. c. bewickii)	2		
Caspian Sea (win) (C. c. bewickii)	1c		

	A	B	C
Anser brachyrhynchus			
Iceland (bre)		2a	
Svalbard (bre)		1	
Anser fabalis			
W Taiga (bre) (A. f. fabalis)		1	
W Tundra (bre) (A. f. rossicus)			1
Anser albifrons			
NW Europe (win) (A. a. albifrons)			1
Central Europe (win) (A. a. albifrons)		2c	
Black Sea (win) (A. a. albifrons)			1
Caspian Sea (win) (A. a. albifrons)	2		
Greenland (bre) (A. a. flavirostris)	3a*		
Anser erythropus			
Black Sea/Caspian Sea (win)	1b		
Anser anser			
Iceland (bre) (A. a. anser)		1	
N Europe/W Mediterranean (A. a. anser)			1
Central Europe/N Africa (A. a. anser)	2*		
Black Sea (win) (A. a. anser)		1	
W Siberia/Caspian Sea (A. a. anser)		1	
Branta leucopsis			
Greenland (bre)		1	
Svalbard (bre)	2		
Russia (bre)			1
Branta bernicla			
Siberia (bre) (B. b. bernicla)		2b	
Svalbard (bre) (B. b. hrota)	1c		
Ireland (win) (B. b. hrota)	2		
Branta ruficolis			
Entire population	1b		
Alopochen aegyptiacus			
Entire population			1[1]
Tadorna ferruginea			
W Mediterranean	1c		
E Mediterranean/Black Sea	2		
SW Asia		1	
Tadorna cana			
Entire population		1	
Tadorna tadorna			
NW Europe		2a	
W Mediterranean	2		
Black Sea		1	
Caspian Sea		1	
Plectropterus gambensis			
W Africa (P. g. gambensis)			1
S Africa (P. g. niger)		1	

	A	B	C
Sarkidiornis melanotos			
Africa (S. m. melanotos)			1[1]
Nettapus auritus			
W Africa	1c		
S/E Africa			1[1]
Anas penelope			
NW Europe			
Black Sea/Mediterranean (win)		2c	
SW Asia (win)		2c	
Anas strepera			
NW Europe (win) (A. s. strepera)		1	
Black Sea/Mediterranean (win) (A. s. strepera)		1	
SW Asia (win) (A. s. strepera)			1
Anas capensis			
Entire population			1[1]
Anas pltyrhynchos			
NW Europe (win) (A. p. platyrhynchos)			1
Black Sea/Mediterranean (win) (A. p. platyrhynchos)		2c	
SW Asia (win) (A. p. platyrhynchos)			1
Anas undulata			
S Africa (A. u. undulata)		1	
Anas acuta			
W Africa (win)			1
NW Europe (win)		1	
Black Sea/Mediterranean (win)		2c	
SW Asia/E Africa (win)			1
Anas erythrorhyncha			
S/E Africa			1
Anas hottenta			
W Africa	1c[1]		
S/E Africa			1[1]
Anas querquedula			
W Africa (win)			1
E Africa/Asia (win)			1
Anas clypeata			
NW Europe (win)		1	
W Mediterranean (win)		2a	
Black Sea/Mediterranean			1
SW Asia (win)			1
Marmaronetta angustirostris			
W Mediterranean	1b		
E Mediterranean	1b		
SW Asia	1b		
Netta rufina			
SW/Central Europe	2*		
SE Europe	3c		

	A	B	C
SW Asia			1
Netta erythrophthalma			
S/E Africa (N. e. brunnea)			1[1]
Aythya nyroca			
Africa (win)	1c		
Europe (win)	3c		
SW Asia	1c		
Aythya fuligula			
NW Europe (win)			1
Black Sea/Mediterranean (win)			1
SW Asia (win)			1
Aythya marila			
E Atlantic (win) (A. m. marila)			1
Black Sea/Caspian Sea (win) (A. m. marila)		1	
Somateria mollissima			
Europe (S. m. mollissima)			1
Somateria spectabilis			
NE Europe			1
Polysticta stelleri			
NE Europe (win)	2		
Clangula hyemalis			
Iceland/Greenland (bre)		2c	
NW Europe (win)			1
Caspian Sea (win)	1c		
Melanitta nigra			
NW Europe (win) (M. n. nigra)		2a	
Melanitta fusca			
NW Europe (win) (M. f. fusca)		2a	
Black Sea/Caspian Sea (win) (M. f. fusca)	1c		
Bucephala clangula			
NW Europe (win) (B. c. clangula)			1
Black Sea/Mediterranean (win) (B. c. clangula)	2*		
Caspian Sea (win) (B. c. clangula)	2		
Mergellus albellus			
NW Europe (win)	3a		
Black Sea/Mediterranean (win)		1	
SW Asia (win)		1	
Mergus serrator			
NW Europe (win) (M. s. serrator)			1
Black Sea/Mediterranean (win) (M. s. serrator)		1	
SW Asia (win) (M. s. serrator)	1c		
Mergus merganser			
NW Europe (win) (M. m. merganser)			
Black Sea/Mediterranean (win) (M. m. merganser)	1c		
SW Asia (win) (M. m. merganser)	2		

Adjustments to the Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September 1987, to the Vienna Convention for the Protection of the Ozone Layer of 22 March 1985, Vienna, 1995

Done at Vienna 7 December 1995

Entered into force 5 August 1996

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER CONCLUDED AT MONTREAL ON 16 SEPTEMBER 1987

ADOPTION OF ADJUSTMENTS

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

On 7 December 1995, at the Seventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, held in Vienna from 5 to 7 December 1995, certain adjustments to the Protocol were adopted by the Parties.

The text of the adjustments adopted is transmitted herewith as an annex to this notification.

In accordance with article 2 (9) of the Protocol, the adjustments in Annexes A, B and C will enter into force for all Parties at the expiry of six months from the date of this notification, that is, on 5 August 1996.

The adjustment to Annex E shall enter into force, as provided in Decision VII/3 of the Seventh Meeting of the Parties, on 1 January 1997.

5 February 1996

Annex I

ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER RELATING TO CONTROLLED SUBSTANCES IN ANNEX A

The Seventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decides, on the basis of the assessments made pursuant to Article 6 of the Protocol, to adopt adjustments and reductions of production and consumption of the controlled substances in Annex A to the Protocol as follows:

Article 5: Special situation of developing countries

The following paragraph 8 bis shall be inserted after paragraph 8 of Article 5 of the Protocol:

8 bis. Based on the conclusions of the review referred to in paragraph 8 above:

(a) With respect to the controlled substances in Annex A, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2A and 2B shall be read accordingly;

Annex II

ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER RELATING TO CONTROLLED SUBSTANCES IN ANNEX B

The Seventh Meeting of the Parties to the Montreal Protocol an Substances that Deplete the Ozone Layer decides, on the basis of the assessments made pursuant to Article 6 of the Protocol, to adopt adjustments and reductions of production and consumption of the controlled substances in Annex B to the Protocol as follows:

Article 5: Special situation of developing countries

The following subparagraph shall be inserted after subparagraph (a) of. paragraph 8 bis of Article 5 of the Protocol:

(b) With respect to the controlled substances in Annex B, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by this Protocol to Articles 2C to 2E shall be read accordingly.

Annex III

ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER RELATING TO CONTROLLED SUBSTANCES IN ANNEXES C AND E

The Seventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decides, on the basis of the assessments made pursuant to Article 6 of the Protocol, to adopt adjustments and reductions of production and consumption of the controlled substances in Annexes C and E to the Protocol as follows:

Article 2F, paragraph 1 (a): Hydrochlorofluorocarbons

In paragraph 1(a) of Article 2F, for the words:

Three point one

there shall be substituted:

Two point eight

Article 2F, paragraph 5: Hydrochlorofluorocarbons

The following sentence shall be added to the end of paragraph 5 of Article 2F of the Protocol:

Such consumption shall, however, be restricted to the servicing of refrigeration and air conditioning equipment existing at that date.

Article 2H: Methyl bromide

Article 2H of the Protocol shall read as follows:

Article 2H: Methyl bromide

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five percent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1991. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical agricultural uses.

5. The calculated levels of consumption and production under this Article shall not include the amounts used by the Party for quarantine and pre-shipment applications.

Article 5, paragraph 8 ter: Special situation of developing countries

The following paragraph 8 ter shall be inserted after paragraph 8 bis of Article 5 of the Protocol:

8 ter. Pursuant to paragraph 1 bis above:

(a) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2016, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of consumption in 2015;

(b) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month peri-

od commencing on 1 January 2040, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero;

(c) Each Party operating under paragraph 1 of this Article shall comply with Article 2G;

(d) With regard to the controlled substance contained in Annex E:

(i) As of 1 January 2002 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 1 of Article 2H and, as the basis for its compliance with these control measures, it shall use the average of its annual calculated level of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(ii) The calculated levels of consumption and production under this subparagraph shall not include the amounts used by the Party for quarantine and pre-shipment applications.

Annex E: Methyl bromide

For "0.7" in the third column of Annex E substitute "0.6".

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September 1987, to the Vienna Convention for the Protection of the Ozone Layer of 22 March 1985, Montreal, 1997

Done at Montreal 15 to 17 September 1997

Entered into force (not in force)

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

Annex IV

AMENDMENT TO THE MONTREAL PROTOCOL ADOPTED BY THE NINTH MEETING OF THE PARTIES

ARTICLE 1: AMENDMENT

A. Article 4, paragraph 1 qua.

The following paragraph shall be inserted after paragraph 1 ter of Article 4 of the Protocol:

1 qua. Within one year at the date of entry into force of this paragraph, each party shall ban the import of the controlled substance in Annex E from any State not party to this Protocol.

B. Article 4, paragraph 2 qua.

The following paragraph shall be inserted after paragraph 2 ter of Article 4 of the Protocol:

2 qua. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.

C. Article 4, paragraphs 5, 6 and 7

In paragraphs 5, 6 and 7 of Article 4 of the Protocol, for the words:

and Group II of Annex C

there shall be substituted:

Group II of Annex C and Annex E

D. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words:

Article 2G

there shall be substituted:

Articles 2G and 2H

E. Article 4A: Control of trade with Parties

The following Article shall be added to the Protocol as Article 4A:

1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.

2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.

F. Article 4B: Licensing

The following Article shall be added to the Protocol as Article 4B:

1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a Position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.

3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.

4. The Secretariat shall periodically prepare and circulate to all Parties a lift of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

ARTICLE 2: RELATIONSHIP TO THE 1992 AMENDMENT

No State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Fourth Meeting of the Parties in Copenhagen, 25 November 1992.

ARTICLE 3: ENTRY INTO FORCE

1. This Amendment shall enter into force on 1 January 1999, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

2. For the purpose of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

3. After the entry into force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

Adjustments to the Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September 1987, to the Vienna Convention for the Protection of the Ozone Layer of 22 March 1985, Montreal, 1997

Done at Montreal 15 to 17 September 1997

Entered into force 5 June 1998 (not in force for the United States)

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER CONCLUDED AT MONTREAL ON 16 SEPTEMBER 1987

ADOPTION OF ADJUSTMENTS AND AMENDMENT BY THE NINTH MEETING OF THE PARTIES HELD AT MONTREAL, ON 15-17 SEPTEMBER 1997

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

I

At the Ninth Meeting of the Parties to the above Protocol, held in Montreal from 15 to 17 September 1997, the Parties adopted the Adjustments to the Protocol (Decisions IX/1, IX/2 and IX/3), pursuant to article 2 (9) of the Protocol.

The text of the Adjustments is transmitted herewith in the six languages of their conclusion, as Annexes I, II and III to this notification.

The Adjustments will enter into force on the expiry of six months from the date of the present notification issued pursuant to article 2 (9) of the Protocol.

II

Also, at their Ninth Meeting, the Parties further adopted, in accordance with the procedure laid down in article 9 (4) of the 1985 Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in Annex IV to the report of the Ninth Meeting of the Parties (Decision IX/4).

The text of the above Amendment, in the six official languages of its conclusion, is attached as Annex IV to this notification.

In accordance with its article 3 (1), this Amendment shall enter into force on 1 January 1999, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

After its entry into force, the Amendment, in accordance with its article 3 (3), shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of the instrument of ratification, acceptance or approval.

5 December 1997

Decision IX/1. Further adjustments with regard to Annex A substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments with regard to production of the controlled substances listed in Annex A to the Protocol, as set out in annex I to the report of the Ninth Meeting of the Parties;

Decision IX/2. Further adjustments with regard to Annex B substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments with regard to production of the controlled substances listed in Annex B to the Protocol, as set out in annex II to the report of the Ninth Meeting of the Parties;

Decision IX/3. Further adjustments and reductions with regard to the Annex E substance

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments and reductions of production and consumption of the controlled substance listed in Annex E to the Protocol, as set out in annex III to the report of the Ninth Meeting of the Parties;

Decision IX/4. Further Amendment of the Protocol

To adopt, in accordance with the procedure laid down in paragraph 4 of Article 9 of the Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in annex IV to the report of the Ninth Meeting of the Parties;

Annex I

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING TO CONTROLLED SUBSTANCES IN ANNEX A

Article 5, paragraph 3

The following words shall be added at the end of paragraph 3 (a) of Article 5 of the Protocol:

relating to consumption

The following subparagraph shall be added to paragraph 3 of Article 5 of the Protocol:

(c) For controlled substances under Annex A, either the average of its annual calculated level of production for the period 1995 to 1997 inclusive or a calculated level of production of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

Annex II

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING TO CONTROLLED SUBSTANCES IN ANNEX B

Article 5, paragraph 3

The following words shall be added at the end of paragraph 3 (b) of Article 5 of the Protocol:

relating to consumption

The following subparagraph shall be added to paragraph 3 of Article 5 of the Protocol:

(d) For controlled substances under Annex B, either the average of its annual calculated level of production for the period 1998 to 2000 inclusive or a calculated level of production of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

Annex III

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING TO THE CONTROLLED SUBSTANCE IN ANNEX E

A. Article 2H: Methyl bromide

1. Paragraphs 2 to 4 of Article 2H of the Protocol shall be replaced by the following paragraphs:

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of

production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the Substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1991. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses.

2. Paragraph 5 of Article 2H of the Protocol shall become paragraph 6.

B. Article 5, paragraph 8 ter (d)

1. The following shall be inserted after paragraph 8 *ter* (d) (i) of Article 5 of the Protocol:

(ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses;

2. Paragraph 8 ter (d) (ii) of Article 5 of the Protocol shall become paragraph 8 ter (d) (iv).

Inter-American Convention for the Protection and Conservation of Sea Turtles, with Annexes, Caracas, 1996

Done at Caracas 1 December 1996

Entered into force (not in force)

Depositary: Venezuela

Primary source citation: Copy of text provided by the U.S. Department of State

Inter-American Convention for the Protection and Conservation of Sea Turtles[1]

Preamble

The Parties to this Convention:

1. *Recognising* the rights and duties of States established in international law, in particular as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the conservation and management of living marine resources;

2. *Inspired* by the principles contained in the Rio Declaration on Environment and Development;

3. *Considering* the principles and recommendations envisioned in the Code of Conduct for Responsible Fishing approved by the Member States of the Food and Agriculture Organisation of the United Nations;

4. *Recalling* that Agenda 21, approved by the United Nations Conference on the Environment and Development, recognizes the need to protect and restore endangered marine species and to conserve their habitats;

5. *Understanding* that, in accordance with the best available scientific evidence, species of sea turtles in the Americas are threatened or endangered, and that some of these species may face an imminent risk of extinction;

6. *Acknowledging* the willingness of the States in the Americas to adopt an agreement to address this situation through an instrument that also facilitates the participation of states from other regions interested in the worldwide protection and conservation of sea turtles, taking into account the widely migratory nature of these species;

7. *Recognizing* that sea turtles are subject to capture, injury, and mortality as a direct or indirect result of human-related activities;

8. *Considering* that coastal zone management measures are indispensable for protecting populations of sea turtles and their habitats;

[1] This document reflects the text resulting from the meeting in Salvador, Bahia, Brazil, held September 3–5, 1996.

9. *Recognizing* the individual environmental, socio-economic and cultural conditions in the States in the Americas;

10. *Recognizing* that sea turtles migrate widely throughout marine areas and that their protection and conservation require cooperation and coordination among States within the range of such species;

11. *Recognizing* also the programs and activities that certain States are currently carrying out for the protection and conservation of sea turtles and their habitats; and

12. *Desiring* to establish, through this Convention, appropriate measures for the protection and conservation of sea turtles throughout their range in the Americas, as well as their habitats;

Have agreed as follows:

Article I Definitions

For the purpose of this Convention:

1. "Sea turtle" means any of the Species listed in Annex 1.

2. "sea turtle habitats" means all those aquatic and terrestrial environments which sea turtles use at any stage of their life cycles.

3. "Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

4. "States in the Americas" means the continental and insular States of North, Central and South America and the Caribbean Sea, including the islands that belong to those States in the Caribbean Sea and in the Atlantic and Pacific Oceans, as well as other States that have continental or insular territories in this region.

Article II Objectives

The objectives of this Convention are to promote the protection, conservation and recovery of sea turtle populations and of the habitats on which they depend, based on the best available scientific information, taking into account the environmental, socio-economic and cultural characteristics of the Parties.

Article III Area of Application of the Convention

The area of application of this Convention (the Convention Area) comprises the entire land territories in the Americas of each of the Parties, as well as the adjacent waters of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea and the Pacific Ocean, with respect to which each of the Parties exercises sovereignty or sovereign rights over living marine resources in accordance with international law, in particular as reflected in the United Nations Convention on the Law of the Sea of 1982.

Article IV Measures

1. Each Party shall take appropriate and necessary measures in accordance with international law and the best available scientific information, for the protection, conservation and recovery of sea turtle populations and their habitats:

a. In its territory and in maritime areas with respect to which it exercise sovereignty or sovereign rights included within the Convention area: and

b. Notwithstanding Article III, with respect to vessels on the high seas that are authorized to fly its flag

2. Such measures shall include:

a. The prohibition of the intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products;

b. Compliance with the obligations established under the Convention on International Trade in Endangered Species of Wild Fauna and Flora relating to sea turtles, their eggs, parts and products;
c. To the extent practicable, the restriction of human activities that could seriously affect sea turtles, especially during the periods of reproduction, nesting and migration;
d. The protection, conservation and, if necessary, the restoration of sea turtle habitat and nesting areas, as well as the establishment of necessary restrictions on the use of such zones, including the designation of protected areas, as provided in Annex 11;
e. The promotion of scientific research relating to sea turtles and their habitats, as well as to other relevant matters that will provide reliable information useful for the adoption of the measures referred to in this Article;
f. The promotion of efforts to enhance sea turtle populations, including research into the experimental reproduction, raising and reintroduction of sea turtles into their habitats in order to determine the feasibility of these practices to increase populations, without putting sea turtles at risk;
g. The promotion of environmental education and dissemination of information in an effort to encourage the participation of government institutions, non-governmental organizations and the general public of each State, especially those communities that are involved in the protection, conservation and recovery of sea turtle populations and their habitats;
h. The reduction, to the greatest extent practicable, of the incidental capture, retention, harm or mortality of sea turtles in the course of fishing activities, through the appropriate regulation of such activities, as well as the development, improvement and use of appropriate gear, devices or techniques, including the use of turtle excluder devices (TEDs) pursuant to the provisions of Annex III, and the corresponding training, in keeping with the principle of the sustainable use of fisheries resources; and
i. Any other measure, in accordance with international law, which the Parties deem appropriate to achieve the objectives of this Convention.

3. With respect to such measures:
a. Each Party may allow exceptions to Paragraph 2(a) to satisfy economic subsistence needs of traditional communities, taking into account the recommendations of the Consultative Committee, provided that such exceptions do not undermine efforts to achieve the objectives of this Convention. In making its recommendations, the Consultative Committee shall consider, *inter alia*, the status of the sea turtle populations in question, regional impacts on such populations, the opinion of any Party regarding such populations and methods used to take the eggs or turtles to cover such needs.
b. A Party allowing such an exception shall:
   (i) establish a management program that includes limits on levels of intentional taking; and
   (ii) include in its Annual Report, referred to in Article XI, information concerning its management program.
c. The Parties may establish, by mutual agreement, regional or subregional management plans.
d. The Parties may, by consensus, approve exceptions to the other measures set forth in paragraph 2, other than those set forth in paragraph 2(b), to account for circumstances warranting special consideration, provided that such exceptions do not undermine the objectives of this Convention.

4. When an emergency situation is identified that undermines efforts to achieve the objectives of this Convention and that requires collective action, the Parties shall consider appropriate and adequate measures to address the situation. These emergency measures shall be of a temporary nature and based on the best available scientific information.

Article V Meetings of the Parties

1. For the first three years following the entry into force of this Convention, the Parties shall hold an ordinary meeting at least once per year to consider matters pertaining to the implementation of the provisions of this Convention. Following that, the Parties shall hold ordinary meetings at least once every two years.

2. The Parties may also hold extraordinary meetings when deemed necessary. These meetings shall be convened at the request of any Party, provided that such request is supported by a majority of the Parties.

3. At such meetings, the Parties shall, among other things:
a. Evaluate compliance with the provisions of this Convention;
b. Examine the reports and consider the recommendations of the Consultative Committee and the

Scientific Committee, established pursuant to Articles VII and VIII, respectively, regarding the implementation of this Convention;

c. Adopt such additional conservation and management measures as deemed appropriate to achieve the objectives of this Convention. If the Parties consider it necessary, such measures may be included in an Annex to this Convention and would enter into force in accordance with Article XXVI(2); and

d. Consider, and as necessary adopt, amendments to this Convention, in accordance with Article XXIV.

4. At their first ordinary meeting, the Parties shall adopt rules of procedure for meetings of the Parties as well as for meetings of the Consultative Committee and the Scientific Committees, and shall consider other matters relating to those committees.

5. Decisions reached at meetings of the Parties shall be adopted by consensus.

6. The Parties may invite representatives of other interested States, relevant international organizations, as well as private industry, scientific institutions and non-governmental organizations with recognized expertise in matters pertaining to this Convention to attend their meetings as observers and to participate in activities under this Convention.

Article VI Secretariat

1. At their first meeting, the Parties shall consider the establishment of a Secretariat with the following functions:

a. Providing assistance in convening and organizing the meetings specified in Article V;

b. Receiving from the Parties the annual reports referred to in Article XI and placing them at the disposal of the Consultative Committee and of the other Parties;

c. Publishing and disseminating the recommendations and decisions adopted at the meetings of the Parties in accordance with rules of procedures adopted by the Parties;

d. Disseminating and promoting information and educational materials regarding efforts undertaken by the Parties to increase public awareness of the need to protect sea turtles and their habitats, while maintaining the economic profitability of diverse artisanal, commercial, and subsistence fishing operations, as well as the sustainable fishing operations, as well as the sustainable use of fisheries resources. This information shall include, *inter alia:*

(i) environmental education and community participation activities; and

(ii) the results of studies and investigations related to the protection and conservation of sea turtles and their habitats and the socio-economic and environmental effects of the measures adopted pursuant to this Convention;

e. Seeking economic and technical resources to carry out research and for the implementation of the measures adopted within the framework of this Convention; and

f. Performing such other functions as may be assigned to it by the Parties.

2. When deciding in this regard, the Parties shall consider the possibility of appointing the Secretariat from among competent international organizations that are willing and able to perform the functions provided for in this Article. The Parties shall determine the means of financing to carry out the functions of the Secretariat.

Article VII Consultative Committee

1. At their first meeting, the Parties shall establish a Consultative Committee of Experts, hereinafter referred to as "the Consultative Committee", which shall be constituted as follows:

a. Each Party may appoint one representative to the Consultative Committee, who may be accompanied at each meeting by advisors;

b. The Parties shall also appoint, by consensus, three representatives with recognized expertise in matters pertaining to this Convention, from each of the following groups:

(i) the scientific community;

(ii) private industry; and

(iii) non-governmental organizations.

2. The functions of the Consultative Committee shall be to:

a. Review and analyze the reports referred to in Article XI, and any other information relating to the

protection and conservation of sea turtles and their habitats;

b. Solicit from any Party additional relevant information relating to the implementation of the measures set forth in this Convention or adopted pursuant thereto;

c. Examine reports concerning the environmental, socio-economic and cultural impact on, affected communities resulting from the measures provided for in this Convention or adopted pursuant thereto;

d. Evaluate the efficiency of the different measures proposed to reduce the capture and incidental mortality of sea turtles, as well as the efficiency of different kinds of TEDs;

e. Present a report to the Parties on its work, including, as appropriate, recommendations on the adoption of additional conservation and management measures to promote the objectives of this Convention;

f. Consider reports of the Scientific Committee; and

g. Perform such other functions as the Parties may assign.

3. The Consultative Committee, in order to carry out its functions, shall meet at least once a year for the first three years after the entry into force of the Convention, and after that in accordance with decisions made by the Parties.

4. The Parties may establish expert groups to advise the Consultative Committee.

Article VIII Scientific Committee

1. The Parties shall establish a Scientific Committee which shall be comprised of representatives designated by the Parties and which shall meet, preferably, prior to the meetings of the Consultative Committee.

2. Functions of the Scientific Committee shall be to:

a. Examine and, as appropriate, conduct studies on sea turtles covered by this Convention, including research on their biology and populations dynamics;

b. Evaluate the environmental impact on sea turtles and their habitats of activities such as fishing operations and marine exploitation activities, coastal development, dredging, pollution, clogging of estuaries and reef deterioration, among other things, as well as the potential impact of activities undertaken as a result of exceptions to the measures allowed in accordance with this Convention;

c. Analyze relevant reports and studies conducted by the Parties;

d. Formulate recommendations for the protection and conservation of sea turtles covered by this Convention and their habitats;

e. Make recommendations on scientific and technical matters at the request of any Party regarding specific matters related to this Convention; and

f. Perform such other scientific functions as the Parties may assign.

Article IX Monitoring and Observation Programs

1. During the year following the entry into force of this Convention, each Party shall establish, within its territory and in maritime areas with respect to which it exercises sovereignty or sovereign rights, a program to ensure monitoring, supervision and observation of the application of the measures to protect and conserve sea turtles and their habitats set forth in this Convention and adopted pursuant thereto.

2. The program referred to in the preceding paragraph shall include, where applicable, mechanisms and arrangements for the participation by observers designated by each Party or by agreement among them in monitoring, supervision and observation activities.

3. In implementing the program, each Party may act with the support or cooperation of other interested States, relevant international organizations and non-governmental organizations.

Article X Compliance

Each Party shall ensure, within its territory and in maritime areas with respect to which it exercises sovereignty or sovereign rights, effective compliance with measures to protect and conserve sea turtles and their habitats set forth in this Convention or adopted pursuant thereto.

Article XI Annual Reports

1. Each Party shall prepare an annual report on its programs to protect and conserve sea turtles and their habitats, as well as its utilization programs, if any, in accordance with Annex IV.

2. Each Party shall provide, either directly or through the Secretariat, if established, its annual report to the other Parties and to the Consultative and Scientific Committees at least 30 days prior to the next ordinary meeting of the Parties and shall also make such annual reports available to other States or interested entities that so request.

Article XII International Cooperation

1. The Parties shall promote bilateral and multilateral cooperative activities to further the objectives of this Convention and, when they deem it appropriate, shall seek the support of relevant international organizations.

2. Such activities may include the training of advisors and educators; the exchange and training of technicians, sea turtle managers and researchers; the exchange of scientific information and education materials; the development of joint research programs, studies, seminars and workshops; and other activities on which the Parties may agree.

3. The Parties shall cooperate to develop and to facilitate access to information and training regarding the use and transfer of environmentally sustainable technologies, consistent with the objectives of this Convention. They shall also develop endogenous scientific and technological capabilities.

4. The Parties shall promote international cooperation in the development and improvement of fishing gear and techniques, taking into account the specific conditions of each region, in order to maintain the productivity of commercial fisheries and to ensure the protection, conservation and recovery of sea turtle populations.

5. The cooperative activities shall include rendering assistance, including technical assistance, to Parties that are developing States, in order to assist them in complying with their obligations under this Convention.

Article XIII Financial Resources

1. At their first ordinary meeting, the Parties shall assess the need for and possibilities of obtaining financial resources, including the establishment of a special fund for purposes such as the following:

a. Meeting the expenses that could be required for the potential establishment of the Secretariat, pursuant to Article VI; and

b. Assisting the Parties that are developing States in fulfilling their obligations under this Convention, including providing access to the technology deemed most appropriate.

Article XIV Coordination

The Parties shall seek to coordinate their activities under this Convention with those of relevant international organizations, whether global, regional or subregional.

Article XV Trade Measures

1. In carrying out this Convention, the Parties shall act in accordance with the provisions of the Agreement establishing the World Trade Organization (WTO), as adopted at Marrakesh in 1994, including its annexes.

2. In particular, the Parties shall act in accordance with the provisions of the Agreement on Technical Barriers to Trade contained in Annex I of the WTO Agreement, as well as Article XI of the General Agreement on Tariffs and Trade of 1994.

3. The Parties shall endeavor to facilitate trade in fish and fishery products associated with this Convention, in accordance with their international obligations.

Article XVI Settlement of Disputes

1. Any Party may consult with one or more other Parties about any dispute related to the interpretation of application of the provisions of this Convention to reach a solution satisfactory to all as quickly as possible.

2. If a dispute is not settled through such consultation within a reasonable period, the Parties in question shall consult among themselves as soon as possible in order to settle the dispute through any peaceful means they may decide upon in accordance with international law, including those provided for in the United Nations Convention on the Law of the Sea of 1982.

Article XVII Rights of the Parties

1. No provision of this Convention may be interpreted in such a way was to prejudice or undermine the sovereignty, sovereign rights or jurisdiction exercised by any Party in accordance with international law.

2. No provision of this Convention, nor measures or activities performed in its implementation, may be interpreted in such a way as to allow one Party to make a claim, or to exercise sovereignty or sovereign rights or jurisdiction, in contravention of international law.

Article XVIII National Implementation

Each Party shall adopt measures in its respective national laws for implementation of the provisions of this Convention and to ensure effective compliance by means of policies, plans and programs for the protection and conservation of sea turtles and their habitats.

Article XIX Non-Parties

1. The Parties shall encourage:
a. any eligible State not Party to this Convention to sign, ratify or accede thereto; and
b. any other State to sign, ratify or accede to a complementary protocol as envisioned in Article XX.

2. The Parties shall also encourage all States not Party to this Convention to adopt laws and regulations consistent with the provisions of this Convention.

Article XX Complementary Protocols

In order to promote the protection and conservation of sea turtles in waters and territories of other regions where these species also exist, the Parties should negotiate with non-Party States a complementary protocol or protocols, consistent with the objectives of this Convention, which shall be open for signature, ratification or accession by all interested States.

Article XXI Signature and Ratification

1. This Convention shall be open for signature by any State in the Americas from December 1, 1996, until December 31, 1998.

2. This Convention is subject to ratification by the Signatories in accordance with their domestic laws and procedures. Instruments of ratification shall be deposited with the Government of Venezuela, which shall be the Depositary.

Article XXII Entry into Force and Accession

1. This Convention shall enter into force ninety days after the date of deposit of the eighth instrument or ratification.

2. After the Convention has entered into force, it shall be open for accession by any State eligible in accordance with Article XXI. This Convention shall enter into force for any such State on the date of its deposit of an instrument of accession with the Depositary.

Article XXIII Reservations

Ratification of, or accession to, this Convention may not be made subject to any reservation.

Article XXIV Amendments

1. Any Party may propose an amendment to this Convention by providing the Depositary the text of a proposed amendment at least sixty days in advance of the next ordinary meeting of the Parties. The Depositary shall promptly circulate any amendment proposed to all the Parties.

2. Amendments to this Convention, adopted by the Parties, shall enter into force when the Depositary has received instruments of ratification from all Parties.

Article XXV Withdrawal

Any Party may withdraw from this Convention at any time after 12 months from the date on which this Convention entered into force with respect to that Party by giving written notice of withdrawal to the Depositary. The Depositary shall inform the other Parties of the withdrawal within 30 days of receipt of such notice. The withdrawal shall become effective six months after receipt of such notice.

Article XXVI Status of Annexes

1. The Annexes to this Convention are an integral part hereof. All references to this Convention shall be understood as including its Annexes.

2. Unless the Parties decide otherwise, the Annexes to this Convention may be amended, by consensus, at any meeting of the Parties. Unless otherwise agreed, amendments to an Annex shall enter into force for all Parties one year after adoption.

Article XXVII Authentic Texts and Certified Copies

1. The English, French, Portuguese, and Spanish texts of this Convention are equally authentic.

2. The original texts of this Convention shall be deposited with the Depositary, which shall send certified copies thereof to the Signatory States and to the Parties hereto, and to the Secretary General of the United Nations for registration and publication, pursuant to Article 102 of the Charter of the United Nations.

In witness whereof, the undersigned, having been duly authorized by their respective governments, have signed this Convention.

Done at Caracas, Venezuela on this 1st day of Dec 1996.

Annex I Sea Turtles[2]

1. *Caretta caretta* (Linnaeus, 1758)

Tortuga caguama, cabezuda, cahuama
Loggerhead turtle
Tortue caouanne
Cabeçuda, metiça

2. *Chelonia mydas* (Linnaeus, 1758), including populations of this species in the Eastern or American Pacific alternatively classified by specialists as the subspecies *Chelonia mydas agassizii* (Carr, 1952), or as the subspecies *Chelonia agassizii* (Bocourt, 1868).

Tortuga blanca, aruana, verde
Green sea turtle
Tortue verte
Tartaruga verde
Soepschildpad, krapé

Common alternate names in the Eastern Pacific:

Tortuga prieta
East Pacific green turtle, black turtle
Tortue verte du Pacifique est

3. *Dermochelys coriacea* (Vandelli, 1761)

Tortuga laúd, gigante, de cuero
Leatherback turtle
Tortue luth
Tartaruga gigante, de couro
Lederschildpad, aitkanti

4. *Eretmochelys imbricata* (Linnaeus, 1766)

Tortuga de carey
Hawksbill sea turtle
Tortue caret
Tartaruga de pente
Karét

5. *Lepidochelys kempii* (Garman, 1880)

Tortuga lora
Kemp's ridley turtle
Tortue de Kemp

6. *Lepidochelys olivacea* (Eschscholtz, 1829)

Tortuga golfina
Olive ridley turtle
Tortue olivâtre
Tartaruga oliva
Warana

[2] Due to the wide variety of common names, even within the same State, this list should not be considered exhaustive.

Annex II Protection and Conservation of Sea Turtle Habitats

The Parties shall consider and may adopt, as necessary and in accordance with their laws, regulations, policies, plans and programs, measures to protect and conserve sea turtle habitats, such as:

1. Requiring assessments of the environmental impact of marine and coastal development activities that may affect sea turtle habitats, including: dredging of canals and estuaries; construction of sea walls, piers and marinas; resource extraction; operation of aquaculture facilities; siting of industrial facilities; use of reefs; deposit of dredged materials and trash; and other development activities;

2. Managing and, when necessary, regulating the use of beaches and coastal dunes with respect to the location and design of buildings, the use of artificial lighting and the transit of vehicles in nesting areas; and

3. Establishing protected areas and taking other measures to regulate the use of areas where sea turtles nest or regularly occur, including permanent or temporary closures, modification of fishing gear, and, to the greatest extent practicable, restrictions on vessel traffic.

Annex III Use of Turtle Excluder Devices

1. "shrimp trawl vessel" means any vessel used to catch shrimp species with trawl nets.

2. "Turtle Excluder Device" or "TED" means a device designed to increase the selectivity of shrimp trawl nets in order to reduce the incidental capture of sea turtles in shrimp fishing operations.

3. Each Party shall require shrimp trawl vessels subject to its jurisdiction that operate within the Convention Area to use recommended TEDs that are properly installed and functional.

4. Each Party, in accordance with the best available scientific evidence, may allow exceptions to the requirement set forth in Paragraph 3 only in the following circumstances:

a. For shrimp trawl vessels whose nets are retrieved exclusively by manual rather than mechanical means, and shrimp vessels with trawl nets for which no TEDs have been developed. A Party allowing such exception shall adopt other measures to protect sea turtles that are equally effective and that do not undermine efforts to achieve the objectives of this Convention, such as limits on tow times and closed seasons and areas.

b. For shrimp trawl vessels:
   (i) exclusively using other trawl gear that has been demonstrated not to pose a risk of incidental mortality of sea turtles; or
   (ii) operating under conditions where there is no likelihood of interaction with sea turtles;
   Provided that the Party allowing such exception provides to the other Parties, either directly of through the Secretariat, if established, documented scientific evidence demonstrating the lack of such risk or likelihood;

c. For shrimp trawl vessels conducting scientific research under a program approved by the Party; and

d. Where the presence of algae, seaweed, debris, or other special conditions, temporary or permanent, make the use of TEDs impracticable in a specific area, provided that:
   (i) a Party allowing this exception shall adopt other measures to protect sea turtles in the area in question, such as limits on tow times;
   (ii) only in extraordinary emergency situations of a temporary nature may a Party allow this exception to apply to more than a small number of the vessels subject to its jurisdiction that would otherwise be required to use TEDs pursuant to this Annex; and
   (iii) a Party allowing this exception shall provide to the other Parties, either directly or through the Secretariat, if established, information concerning the special conditions and the number of shrimp trawl vessels operating in the area in question.

5. Any Party may comment upon information provided by any other Party pursuant to Paragraph 4. Where appropriate, the Parties shall seek guidance from the Consultative Committee to resolve differences of view. If the Consultative Committee so recommends, and the Parties agree, a Party that has allowed an exception pursuant to Paragraph 4 shall reconsider the allowance or extent of such an exception.

6. The Parties may, by consensus, approve other exceptions to the requirement set forth in Paragraph 3, in accordance with the best available scientific evidence and based on recommendations of the Consultative Committee, to account for circumstances warranting special consideration, provided that such exceptions do not undermine efforts to achieve the objectives of this Convention.

7. For the purposes of this Convention:

a. Recommended TEDs shall be those TEDs determined by the Parties, with advice from the Consultative Committee, to reduce the incidental capture of sea turtles in shrimp trawl fishing operations to the greatest extent practicable;
b. At their first meeting, the Parties shall develop an initial list of recommended TEDs, which they may modify at subsequent meetings; and
c. Until the first meeting of the Parties, each Party shall determine, in accordance with its own laws and regulations, which TEDs to require for use by shrimp trawl vessels subject to its jurisdiction in order to reduce the incidental capture of sea turtles in shrimp trawl fishing operations to the greatest extent practicable, based on consultations with other Parties.

8. At the request of any other Party or of the Consultative or Scientific Committees, each Party shall provide pertinent scientific information either directly or through Secretariat, if established.

Annex IV Annual Reports

The annual reports referred to in Article XI(1) shall include the following:

a. A general description of the program to protect and conserve sea turtles and their habitats, including any laws or regulations adopted to promote the objectives of the Convention;
b. Any pertinent new laws or regulations adopted during the preceding year;
c. A summary of actions taken, and the results thereof, to implement measures for the conservation and protection of sea turtles and their habitats, such as: operation of turtle camps; improvement and development of new fishing gear to reduce incidental sea turtle capture and mortality; scientific research, including marking, migration, and repopulation studies; environmental education; programs to establish and manage protected areas, cooperative activities with other Parties; and any other activities designed to achieve the objectives of this Convention;
d. A summary of the actions taken to enforce its laws and regulations, including penalties imposed for violations;
e. A detailed report describing any exceptions allowed, in accordance with this Convention, during the preceding year, including monitoring and mitigation measures related to these exceptions, and, in particular, any relevant information on the number of turtles, nests, and eggs, as well as sea turtle habitats, affected by the allowance of these exceptions; and
f. Any other information the Party may deem relevant.

Amendments to the List in Annex I to the United Nations Framework Convention on Climate Change of 9 May 1992, Kyoto, 1997

Done at Kyoto 11 December 1997

Entered into force 13 August 1998

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

ENGLISH TEXT

[...]

"*Noting* that the Parties concerned have granted their approval to be included in the list in Annex I to the Convention,

"*Bearing in mind* the procedure in Article 4.2(f) of the Convention,

1. *Decides* to amend the list in Annex I to the Convention by:

   (a) Deleting the name of Czechoslovakia;

   (b) Including the names of Croatia[a], the Czech Republic[a], Liechtenstein, Monaco, Slovakia[a] and Slovenia[a];

[...]

[a] Countries that are undergoing transition to a market economy

Kyoto Protocol to the United Nations Framework Convention on Climate Change of 9 May 1992, with annexes, Kyoto, 1997

Done at Kyoto 11 December 1997

Entered into force (not in force)

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

The Parties to this Protocol,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention",

In pursuit of the ultimate objective of the Convention as stated in its Article 2,

Recalling the provisions of the Convention,

Being guided by Article 3 of the Convention,

Pursuant to the Berlin Mandate adopted by decision 1/CP.1 of the Conference of the Parties to the Convention at its first session,

Have agreed as follows:

Article 1

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. "Conference of the Parties" means the Conference of the Parties to the Convention.

2. "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.

3. "Intergovernmental Panel on Climate Change" means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.

4. "Montreal Protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.

5. "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. "Party" means, unless the context otherwise indicates, a Party to this Protocol.

7. "Party included in Annex I" means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.

Article 2

1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:

(a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:

(i) Enhancement of energy efficiency in relevant sectors of the national economy;

(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;

(iii) Promotion of sustainable forms of agriculture in light of climate change considerations;

(iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;

(v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;

(vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;

(vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector;

(viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy;

(b) Cooperate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted under this Article, pursuant to Article 4, paragraph 2 (e) (i), of the Convention. To this end, these Parties shall take steps to share their experience and exchange information on such policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, consider ways to facilitate such cooperation, taking into account all relevant information.

2. The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.

3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take fur-

ther action, as appropriate, to promote the implementation of the provisions of this paragraph.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1 (a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures.

Article 3

1. The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.

2. Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol.

3. The net changes in greenhouse gas emissions by sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks in each commitment period, shall be used to meet the commitments under this Article of each Party included in Annex I. The greenhouse gas emissions by sources and removals by sinks associated with those activities shall be reported in a transparent and verifiable manner and reviewed in accordance with Articles 7 and 8.

4. Prior to the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol, each Party included in Annex I shall provide, for consideration by the Subsidiary Body for Scientific and Technological Advice, data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, decide upon modalities, rules and guidelines as to how, and which, additional human-induced activities related to changes in greenhouse gas emissions by sources and removals by sinks in the agricultural soils and the land-use change and forestry categories shall be added to, or subtracted from, the assigned amounts for Parties included in Annex 1, taking into account uncertainties, transparency in reporting, verifiability, the methodological work of the Intergovernmental Panel on Climate Change, the advice provided by the Subsidiary Body for Scientific and Technological Advice in accordance with Article 5 and the decisions of the Conference of the Parties. Such a decision shall apply in the second and subsequent commitment periods. A Party may choose to apply such a decision on these additional human-induced activities for its first commitment period, provided that these activities have taken place since 1990.

5. The Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session shall use that base year or period for the implementation of their commitments under this Article. Any other Party included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12 of the Convention may also notify the Conference of the Parties serving as the meeting of the Parties to this Protocol that it intends to use an historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall decide on the acceptance of such notification.

6. Taking into account Article 4, paragraph 6, of the Convention, in the implementation of their commitments under this Protocol other than those under this Article, a certain degree of flexibility shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol to the Parties included in Annex I undergoing the process of transition to a market economy.

7. In the first quantified emission limitation and reduction commitment period, from 2008 to 2012, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by five. Those Parties included in Annex I for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990 shall include in their 1990 emissions base year or period the aggregate anthropogenic carbon dioxide

equivalent emissions by sources minus removals by sinks in 1990 from land-use change for the purposes of calculating their assigned amount.

8. Any Party included in Annex I may use 1995 as its base year for hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, for the purposes of the calculation referred to in paragraph 7 above.

9. Commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate the consideration of such commitments at least seven years before the end of the first commitment period referred to in paragraph 1 above.

10. Any emission reduction units, or any part of an assigned amount, which a Party acquires from another Party in accordance with the provisions of Article 6 or of Article 17 shall be added to the assigned amount for the acquiring Party.

11. Any emission reduction units, or any part of an assigned amount, which a Party transfers to another Party in accordance with the provisions of Article 6 or of Article 17 shall be subtracted from the assigned amount for the transferring Party.

12. Any certified emission reductions which a Party acquires from another Party in accordance with the provisions of Article 12 shall be added to the assigned amount for the acquiring Party.

13. If the emissions of a Party included in Annex I in a commitment period are less than its assigned amount under this Article, this difference shall, on request of that Party, be added to the assigned amount for that Party for subsequent commitment periods.

14. Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology.

Article 4

1. Any Parties included in Annex I that have reached an agreement to fulfil their commitments under Article 3 jointly, shall be deemed to have met those commitments provided that their total combined aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of Article 3. The respective emission level allocated to each of the Parties to the agreement shall be set out in that agreement.

2. The Parties to any such agreement shall notify the secretariat of the terms of the agreement on the date of deposit of their instruments of ratification, acceptance or approval of this Protocol, or accession thereto. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of the agreement.

3. Any such agreement shall remain in operation for the duration of the commitment period specified in Article 3, paragraph 7.

4. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization, any alteration in the composition of the organization after adoption of this Protocol shall not affect existing commitments under this Protocol. Any alteration in the composition of the organization shall only apply for the purposes of those commitments under Article 3 that are adopted subsequent to that alteration.

5. In the event of failure by the Parties to such an agreement to achieve their total combined level of emission reductions, each Party to that agreement shall be responsible for its own level of emissions set out in the agreement.

6. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Protocol, each member State of that regional economic integration organization individually, and together with the regional economic integration organization acting in accordance with Article 24, shall, in the event of failure to achieve the total combined level of emission reductions, be responsible for its level of emissions as notified in accordance with this Article.

Article 5

1. Each Party included in Annex I shall have in place, no later than one year prior to the start of the first commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems., which shall incorporate the methodologies specified in paragraph 2 below, shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

2. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

3. The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise the global warming potential of each such greenhouse gas, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

Article 6

1. For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provided that:

(a) Any such project has the approval of the parties involved;

(b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;

(c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and

(d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol may, at its first session or as soon as practicable thereafter, further elaborate guidelines for the implementation of this Article, including for verification and reporting.

3. A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

4. If a question of implementation by a Party included in Annex I of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

Article 7

1. Each Party included in Annex I shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, submitted in accordance with the relevant decisions of the Conference of the Parties, the necessary supplementary information for the purposes of ensuring compliance with Article 3, to be determined in accordance with paragraph 4 below.

2. Each Party included in Annex I shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under this Protocol, to be determined in accordance with paragraph 4 below.

3. Each Party included in Annex I shall submit the information required under paragraph 1 above annually, beginning with the first inventory due under the Convention for the first year of the commitment period after this Protocol has entered into force for that Party. Each such Party shall submit the information required under paragraph 2 above as part of the first national communication due under the Convention after this Protocol has entered into force for it and after the adoption of guidelines as provided for in paragraph 4 below. The frequency of subsequent submission of information required under this Article shall be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, taking into account any timetable for the submission of national communications decided upon by the Conference of the Parties.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of national communications by Parties included in Annex I adopted by the Conference of the Parties. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall also, prior to the first commitment period, decide upon modalities for the accounting of assigned amounts.

Article 8

1. The information submitted under Article 7 by each Party included in Annex I shall be reviewed by expert review teams pursuant to the relevant decisions of the Conference of the Parties and in accordance with guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol under paragraph 4 below. The information submitted under Article 7, paragraph 1, by each Party included in Annex I shall be reviewed as part of the annual compilation and accounting of emissions inventories and assigned amounts. Additionally, the information submitted under Article 7, paragraph 2, by each Party included in Annex I shall be reviewed as part of the review of communications.

2. Expert review teams shall be coordinated by the secretariat and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with guidance provided for this purpose by the Conference of the Parties.

3. The review process shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol, assessing the implementation of the commitments of the Party and identifying any potential problems in, and factors influencing, the fulfillment of commitments. Such reports shall be circulated by the secretariat to all Parties to the Convention. The secretariat shall list those questions of implementation indicated in such reports for further consideration by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the review of implementation of this Protocol by expert review teams taking into account the relevant decisions of the Conference of the Parties.

5. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, with the assistance of the Subsidiary Body for Implementation and, as appropriate, the Subsidiary Body for Scientific and Technological Advice, consider:

(a) The information submitted by Parties under Article 7 and the reports of the expert reviews thereon conducted under this Article; and

(b) Those questions of implementation listed by the secretariat under paragraph 3 above, as well as any questions raised by Parties.

6. Pursuant to its consideration of the information referred to in paragraph 5 above, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take decisions on any matter required for the implementation of this Protocol.

Article 9

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts, as well as relevant technical, social and economic information. Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action.

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Further reviews shall take place at regular intervals and in a timely manner.

Article 10

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for Parties not included in Annex I, but reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4, paragraphs 3, 5 and 7, of the Convention, shall:

(a) Formulate, where relevant and to the extent possible, cost-effective national and, where appropriate, regional programmes to improve the quality of local emission factors, activity data and/or models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties, and consistent with the guidelines for the preparation of national communications adopted by the Conference of the Parties;

(b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change:

(i) Such programmes would, *inter alia*, concern the energy, transport and industry sectors as well as agriculture, forestry and waste management. Furthermore, adaptation technologies and methods for improving spatial planning would improve adaptation to climate change; and

(ii) Parties included in Annex I shall submit information on action under this Protocol, including national programmes, in accordance with Article 7; and other Parties shall seek to include in their national communications, as appropriate, information on programmes which contain measures that the Party believes contribute to addressing climate change and its adverse impacts, including the abatement of increases in greenhouse gas emissions, and enhancement of and removals by sinks, capacity

building and adaptation measures;

(c) Cooperate in the promotion of effective modalities for the development, application and diffusion of, and take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain and the creation of an enabling environment for the private sector, to promote and enhance the transfer of, and access to, environmentally sound technologies;

(d) Cooperate in scientific and technical research and promote the maintenance and the development of systematic observation sytems and development of data archives to reduce uncertainties related to the climate system, the adverse impacts of climate change and the economic and social consequences of various response strategies, and promote the development and strengthening of endogenous capacities and capabilities to participate in international and intergovernmental efforts, programmes and networks on research and systematic observation, taking into account Article 5 of the Convention;

(e) Cooperate in and promote at the international level, and, where appropriate, using existing bodies, the development and implementation of education and training programmes, including the strengthening of national capacity building, in particular human and institutional capacities and the exchange or secondment of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness of, and public access to information on, climate change. Suitable modalities should be developed to implement these activities through the relevant bodies of the Convention, taking into account Article 6 of the Convention;

(f) Include in their national communications information on programmes and activities undertaken pursuant to this Article in accordance with relevant decisions of the Conference of the Parties; and

(g) Give full consideration, in implementing the commitments under this Article, to Article 4, paragraph 8, of the Convention.

Article 11

1. In the implementation of Article 10, Parties shall take into account the provisions of Article 4, paragraphs 4, 5, 7, 8 and 9, of the Convention.

2. In the context of the implementation of Article 4, paragraph 1, of the Convention, in accordance with the provisions of Article 4, paragraph 3, and Article 11 of the Convention, and through the entity or entities entrusted with the operation of the financial mechanism of the Convention, the developed country Parties and other developed Parties included in Annex II to the Convention shall:

(a) Provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in advancing the implementation of existing commitments under Article 4, paragraph 1 (a), of the Convention that are covered in Article 10, subparagraph (a); and

(b) Also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of advancing the implementation of existing commitments under Article 4, paragraph 1, of the Convention that are covered by Article 10 and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention, in accordance with that Article.

The implementation of these existing commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among developed country Parties. The guidance to the entity or entities entrusted with the operation of the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply *mutatis mutandis* to the provisions of this paragraph.

3. The developed country Parties and other developed Parties in Annex II to the Convention may also provide, and developing country Parties avail themselves of, financial resources for the implementation of Article 10.

through bilateral, regional and other multilateral channels.

Article 12

1. A clean development mechanism is hereby defined.

2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

(a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

(b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism.

5. Emission reductions resulting from each project activity shall be certified by operational entities to be designated by the Conference of the Parties serving as the meeting of the Parties to this Protocol, on the basis of:

(a) Voluntary participation approved by each Party involved;

(b) Real, measurable, and long-term benefits related to the mitigation of climate change; and

(c) Reductions in emissions that are additional to any that would occur in the absence of the certified project activity.

6. The clean development mechanism shall assist in arranging funding of certified project activities as necessary.

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

9. Participation under the clean development mechanism, including in activities mentioned in paragraph 3 (a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism.

10. Certified emission reductions obtained during the period from the year 2000 up to the beginning of the first commitment period can be used to assist in achieving compliance in the first commitment period.

Article 13

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Assess, on the basis of all information made available to it in accordance with the provisions of this Protocol, the implementation of this Protocol by the Parties, the overall effects of the measures taken pursuant to this Protocol, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(b) Periodically examine the obligations of the Parties under this Protocol, giving due consideration to any reviews required by Article 4, paragraph 2 (d), and Article 7, paragraph 2, of the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge, and in this respect consider and adopt regular reports on the implementation of this Protocol;

(c) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(d) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(e) Promote and guide, in accordance with the objective of the Convention and the provisions of this Protocol, and taking fully into account the relevant decisions by the Conference of the Parties, the development and periodic refinement of comparable methodologies for the effective implementation of this Protocol, to be agreed on by the Conference of the Parties serving as the meeting of the Parties to this Protocol;

(f) Make recommendations on any matters necessary for the implementation of this Protocol;

(g) Seek to mobilize additional financial resources in accordance with Article 11, paragraph 2;

(h) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(i) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and

(j) Exercise such other functions as may be required for the implementation of this Protocol, and consider any assignment resulting from a decision by the Conference of the Parties.

5. The rules of procedure of the Conference of the Parties and financial procedures applied under the Convention shall be applied *mutatis mutandis* under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held every year and in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Protocol and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Protocol as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 14

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Protocol. The secretariat shall, in addition, exercise the functions assigned to it under this Protocol.

Article 15

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve as, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol. The provisions relating to the functioning of these two bodies under the Convention shall apply *mutatis mutandis* to this Protocol. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Protocol, any member of the Bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

Article 16

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, as soon as practicable, consider the application to this Protocol of, and modify as appropriate, the multilateral consultative process referred to in Article 13 of the Convention, in the light of any relevant decisions that may be taken by the Conference of the Parties. Any multilateral consultative process that may be applied to this Protocol shall operate without prejudice to the procedures and mechanisms established in accordance with Article 18.

Article 17

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article.

Article 18

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol.

Article 19

The provisions of Article 14 of the Convention on settlement of disputes shall apply *mutatis mutandis* to this Protocol.

Article 20

1. Any Party may propose amendments to this Protocol.

2. Amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to this Protocol.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 21

1. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Any annexes adopted after the entry into force of this Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.

3. Annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary.

4. The Parties shall make every effort to reach agreement on any proposed annex or amendment to an annex by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the annex or amend-

ment to an annex shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted annex or amendment to an annex shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

5. An annex, or amendment to an annex other than Annex A or B, that has been adopted in accordance with paragraphs 3 and 4 above shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex or adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex or amendment to the annex. The annex or amendment to an annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

6. If the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to this Protocol enters into force.

7. Amendments to Annexes A and B to this Protocol shall be adopted and enter into force in accordance with the procedure set out in Article 20, provided that any amendment to Annex B shall be adopted only with the written consent of the Party concerned.

Article 22

1. Each Party shall have one vote, except as provided for in paragraph 2 below.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 23

The Secretary-General of the United Nations shall be the Depositary of this Protocol.

Article 24

1. This Protocol shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention. It shall be open for signature at United Nations Headquarters in New York from 16 March 1998 to 15 March 1999. This Protocol shall be open for accession from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to this Protocol without any of its member States being a Party shall be bound by all the obligations under this Protocol. In the case of such organizations, one or more of whose member States is a Party to this Protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under this Protocol concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 25

1. This Protocol shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 per cent of the

total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession.

2. For the purposes of this Article, "the total carbon dioxide emissions for 1990 of the Parties included in Annex I" means the amount communicated on or before the date of adoption of this Protocol by the Parties included in Annex I in their first national communications submitted in accordance with Article 12 of the Convention.

3. For each State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after the conditions set out in paragraph 1 above for entry into force have been fulfilled, this Protocol shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 26

No reservations may be made to this Protocol.

Article 27

1. At any time after three years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from this Protocol by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Protocol.

Article 28

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

DONE at Kyoto this eleventh day of December one thousand nine hundred and ninety-seven.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have affixed their signatures to this Protocol on the dates indicated.

Annex A

Greenhouse gases

Carbon dioxide (C02)
Methane (CH4)
Nitrous oxide (N20)
Hydrofluorocarbons (HFCs)
Perfluorocarbons (PFCs)
Sulphur hexafluoride (SF6)

Sectors/source categories

Energy
- Fuel combustion
  - Energy industries
  - Manufacturing industries and construction
  - Transport
  - Other sectors
  - Other
- Fugitive emissions from fuels
  - Solid fuels
  - Oil and natural gas
  - Other

Industrial processes
- Mineral products
- Chemical industry
- Metal production
- Other production
- Production of halocarbons and sulphur hexafluoride
- Consumption of halocarbons and sulphur hexafluoride
- Other

Solvent and other product use

Agriculture
- Enteric fermentation
- Manure management
- Rice cultivation
- Agricultural soils
- Prescribed burning of savannas
- Field burning of agricultural residues
- Other

Waste
- Solid waste disposal on land
- Wastewater handling
- Waste incineration
- Other

Annex B

Party	Quantified emission limitation or reduction commitment (percentage of base year or period)
Australia	108
Austria	92
Belgium	92
Bulgaria*	92
Canada	94
Croatia*	95
Czech Republic*	92
Denmark	92
Estonia*	92
European Community	92
Finland	92
France	92
Germany	92
Greece	92
Hungary*	94
Iceland	110
Ireland	92
Italy	92
Japan	94
Latvia*	92
Liechtenstein	92
Lithuania*	92
Luxembourg	92
Monaco	92
Netherlands	92
New Zealand	100
Norway	101
Poland*	94
Portugal	92
Romania*	92
Russian Federation*	100
Slovakia*	92
Slovenia*	92
Spain	92
Sweden	92
Switzerland	92
Ukraine*	100
United Kingdom of Great Britain and Northern Ireland	92
United States of America	93

* Countries that are undergoing the process of transition to a market economy.

MULTILATERAL

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

NON-BINDING

World Charter for Nature, New York, 1982

Done at New York 28 October 1982

Primary source citation: Copy of text provided by the United Nations

37/7. World Charter for Nature

The General Assembly,

Having considered the report of the Secretary-General on the revised draft World Charter for Nature,

Recalling that, in its resolution 35/7 of 30 October 1980, it expressed its conviction that the benefits which could be obtained from nature depended on the maintenance of natural processes and on the diversity of life forms and that those benefits were jeopardized by the excessive exploitation and the destruction of natural habitats,

Further recalling that, in the same resolution, it recognized the need for appropriate measures at the national and international levels to protect nature and promote international co-operation in that field,

Recalling that, in its resolution 36/6 of 27 October 1981, it again expressed its awareness of the crucial importance attached by the international community to the promotion and development of co-operation aimed at protecting and safeguarding the balance and quality of nature and invited the Secretary-General to transmit to Member States the text of the revised version of the draft World Charter for Nature contained in the report of the *Ad Hoc* Group of Experts on the draft World Charter for Nature, as well as any further observations by States, with a view to appropriate consideration by the General Assembly at its thirty-seventh session,

Conscious of the spirit and terms of its resolutions 35/7 and 36/6, in which it solemnly invited Member States, in the exercise of their permanent sovereignty over their natural resources, to conduct their activities in recognition of the supreme importance of protecting natural systems, maintaining the balance and quality of nature and conserving natural resources, in the interests of present and future generations,

Having considered the supplementary report of the Secretary-General,

Expressing its gratitude to the *Ad Hoc* Group of Experts which, through its work, has assembled the necessary elements for the General Assembly to be able to complete the consideration of and adopt the revised draft World Charter for Nature at its thirty-seventh session, as it had previously recommended,

Adopts and solemnly proclaims the World Charter for Nature contained in the annex to the present resolution.

48th plenary meeting
28 October 1982

ANNEX
World Charter for Nature

The General Assembly,

Reaffirming the fundamental purposes of the United Nations, in particular the maintenance of international peace and security, the development of friendly relations among nations and the achievement of international cooperation in Solving international problems of an economic, social, cultural, technical, intellectual or humanitarian character,

Aware that:

(*a*) Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients,

(*b*) Civilization is rooted in nature, which has shaped human culture and influenced all artistic and scientific achievement, and living in harmony with nature gives man the best opportunities for the development of his creativity, and for rest and recreation,

Convinced that:

(*a*) Every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action,

(*b*) Man can alter nature and exhaust natural resources by his action or its consequences and, therefore, must fully recognize the urgency of maintaining the stability and quality of nature and of conserving natural resources,

Persuaded that:

(*a*) Lasting benefits from nature depend upon the maintenance of essential ecological processes and life support systems, and upon the diversity of life forms, which are jeopardized through excessive exploitation and habitat destruction by man,

(*b*) The degradation of natural systems owing to excessive consumption and misuse of natural resources, as well as to failure to establish an appropriate economic order among peoples and among States, leads to the breakdown of the economic, social and political framework of civilization,

(*c*) Competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of peace and cannot be achieved until mankind learns to live in peace and to forsake war and armaments,

Reaffirming that man must acquire the knowledge to maintain and enhance his ability to use natural resources in a manner which ensures the preservation of the species and ecosystems for the benefit of present and future generations,

Firmly convinced of the need for appropriate measures, at the national and international, individual and collective, and private and public levels, to protect nature and promote international co-operation in this field.

Adopts, to these ends, the present World Charter for Nature, which proclaims the following principles of conservation by which all human conduct affecting nature is to be guided and judged.

I. GENERAL PRINCIPLES

1. Nature shall be respected and its essential processes shall not be impaired.
2. The genetic viability on the earth shall not be compromised; the population levels of all life forms, wild and domesticated, must be at least sufficient for their survival, and to this end necessary habitats shall be safeguarded.
3. All areas of the earth, both land and sea, shall be subject to these principles of conservation; special

protection shall be given to unique areas, to representative samples of all the different types of ecosystems and to the habitats of rare and endangered species.

4. Ecosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist.

5. Nature shall be secured against degradation caused by warfare or other hostile activities.

II. FUNCTIONS

6. In the decision-making process it shall be recognized that man's needs can be met only by ensuring the proper functioning of natural systems and by respecting the principles set forth in the present Charter.

7. In the planning and implementation of social and economic development activities, due account shall be taken of the fact that the conservation of nature is an integral part of those activities.

8. In formulating long-term plans for economic development, population growth and the improvement of standards of living, due account shall be taken of the long-term capacity of natural systems to ensure the subsistence and settlement of the populations concerned, recognizing that this capacity may be enhanced through science and technology.

9. The allocation of areas of the earth to various uses shall be planned and due account shall be taken of the physical constraints, the biological productivity and diversity and the natural beauty of the areas concerned.

10. Natural resources shall not be wasted, but used with a restraint appropriate to the principles set forth in the present Charter, in accordance with the following rules:

(*a*) Living resources shall not be utilized in excess of their natural capacity for regeneration;

(*b*) The productivity of soils shall be maintained or enhanced through measures which safeguard their long-term fertility and the process of organic decomposition, and prevent erosion and all other forms of degradation;

(*c*) Resources, including water, which are not consumed as they are used shall be reused or recycled;

(*d*) Non-renewable resources which are consumed as they are used shall be exploited with restraint, taking into account their abundance, the rational possibilities of converting them for consumption, and the compatibility of their exploitation with the functioning of natural systems.

11. Activities which might have an impact on nature shall be controlled, and the best available technologies that minimize significant risks to nature or other adverse effects shall be used; in particular.

(*a*) Activities which are likely to cause irreversible damage to nature shall be avoided;

(*b*) Activities which are likely to pose a significant risk to nature shall be preceded by an exhaustive "examination; their proponents shall demonstrate that expected benefits outweigh potential damage to nature, and where potential adverse effects are not fully understood, the activities should not proceed;

(*c*) Activities which may disturb nature shall be preceded by assessment of their consequences, and environmental impact studies of development projects shall be conducted sufficiently in advance, and if they are to be undertaken, such activities shall be planned and carried out so as to minimize potential adverse effects;

(*d*) Agriculture, grazing, forestry and fisheries practices shall be adapted to the natural characteristics and constraints of given areas;

(*e*) Areas degraded by human activities shall be rehabilitated for purposes in accord with their natural potential and compatible with the well being of affected populations.

12. Discharge of pollutants into natural systems shall be avoided and:

(*a*) Where this is not feasible, such pollutants shall be treated at the source, using the best practicable means available;

(*b*) Special precautions shall be taken to prevent discharge of radioactive or toxic wastes.

13. Measures intended to prevent, control or limit natural disasters, infestations and diseases shall be specifically directed to the causes of these scourges and shall avoid adverse side-effects on nature.

III. IMPLEMENTATION

14. The principles set forth in the present Charter shall be reflected in the law and practice of each State, as well as at the international level.

15. Knowledge of nature shall be broadly disseminated by all possible means, particularly by ecological education as an integral part of general education.

16. All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of thew elements shall be disclosed to the public by appropriate means in time to

permit effective consultation and participation.

17. Funds, programmes and administrative structures necessary to achieve the objective of the conservation of nature shall be provided.

18. Constant efforts shall be made to increase knowledge of nature by scientific research and to disseminate such knowledge by restrictions of any kind.

19. The status of natural processes, ecosystems and species shall be closely monitored to enable early detection of degradation or threat, ensure timely intervention and facilitate the evaluation of conservation policies and methods.

20. Military activities damaging to nature shall be avoided.

21. States and, to the extent they are able, other public authorities, international organizations, individuals, groups and corporations shall:

(*a*) Co-operate in the task of conserving nature through common activities and other relevant actions, including information exchange and consultations;

(*b*) Establish standards for products and manufacturing processes that may have adverse effects on nature, as well as agreed methodologies for assessing these effects;

(*c*) Implement the applicable international legal provisions for the conservation of nature and the protection of the environment;

(*d*) Ensure that activities within their jurisdictions or control do not cause damage to the natural systems located within other States or in the areas beyond the limits of national jurisdiction;

(*e*) Safeguard and conserve nature in areas beyond national jurisdiction.

22. Taking fully into account the sovereignty of States over their natural resources, each State shall give effect to the provisions of the present Charter through its competent organs and in co-operation with other States.

23. All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of redress when their environment has suffered damage or degradation.

24. Each person has a duty to act in accordance with the provisions of the present Charter, acting individually, in association with others or through participation in the political process, each person shall strive to ensure that the objectives and requirements of the present Charter are met.

Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, Washington, DC, 1995

Done at Washington, DC 3 November 1995

Primary source citation: Copy of text provided by the U.S. Department of Commerce

I. INTRODUCTION

A. The need for action

1. The major threats to the health and productivity and biodiversity of the marine environment result from human activities on land -in coastal areas and further inland. Most of the pollution load of the oceans, including municipal, industrial and agricultural wastes and run-off, as well as atmospheric deposition, emanates from such land-based activities and affects the most productive areas of the marine environment, including estuaries and near-shore coastal waters. These areas are likewise threatened by physical alteration of the coastal environment, including destruction of habitats of vital importance for ecosystem health. Moreover, contaminants which pose risks to human health and living resources are transported long distances by watercourses, ocean currents and atmospheric processes.

2. The bulk of the world's population lives in coastal areas, and there is a continuing trend towards its concentration in these regions. The health, well-being and, in some cases, the very survival of coastal populations depend upon the health and well-being of coastal systems -estuaries and wetlands -as well as their associated watersheds and drainage basins and near-shore coastal waters. Ultimately, sustainable patterns of human activity in coastal areas depend upon a healthy marine environment, and vice versa.

B. Aims of the Global Programme of Action

3. The Global Programme of Action aims at preventing the degradation of the marine environment from land-based activities by facilitating the realization of the duty of States to preserve and protect the marine environment. It is designed to assist States in taking actions individually or jointly within their respective policies, priorities and resources, which will lead to the prevention, reduction, control and/or elimination of the degradation of the marine environment, as well as to its recovery from the impacts of land-based activities. Achievement of the aims of the Programme of Action will contribute to maintaining and, where appropriate, restoring the productive capacity and biodiversity of the marine environment, ensuring the protection of human health, as well as promoting the conservation and sustainable use of marine living resources.

C. Legal and institutional framework

4. International law, as reflected in the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and elsewhere, sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources.

5. In accordance with general international law, while States have the sovereign right to exploit their natural resources pursuant to their environmental policies, the enjoyment of such right shall be in accordance with the duty to protect and preserve the marine environment. This fundamental duty is to protect and preserve the marine environment from all sources of pollution, including land-based activities. Of particular significance for the Global Programme of Action are the provisions contained in articles 207 and 213 of UNCLOS.

6. Also of particular importance for the Programme of Action is the emphasis, in parts XII, XIII and XIV of the Convention, dealing, respectively, with protection and preservation of the marine environment, marine scientific research and the development and transfer of marine technology, on the obligation of States to cooperate in the development of the marine scientific and technological capacity of developing States and to provide them with scientific and technical assistance.

7. The duty of States to preserve and protect the marine environment has been reflected and elaborated upon in numerous global conventions and regional instruments (e.g. the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; Convention on Biological Diversity; United Nations Framework Convention on Climate Change; Regional Seas Conventions; International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), etc.). Innovative new principles and approaches applicable to the prevention of the degradation of the marine environment from land-based activities have been included in a number of such agreements.

8. In 1982, the United Nations Environment Programme (UNEP) took the initiative to develop advice to Governments on addressing impacts on the marine environment from land-based activities. This initiative resulted in the preparation of the Montreal Guidelines for the Protection of the Marine Environment Against Pollution from Land-based Sources in 1985.

9. The duty to protect the marine environment from land-based activities was placed squarely in the context of sustainable development by the United Nations Conference on Environment and Development in 1992. Therein, States agreed it is necessary:

(a) To apply preventive, precautionary, and anticipatory approaches so as to avoid degradation of the marine environment, as well as to reduce the risk of long-term or irreversible adverse effects upon it;

(b) To ensure prior assessment of activities that may have significant adverse impacts upon the marine environment;

(c) To integrate protection of the marine environment into relevant general environmental, social and economic development policies;

(d) To develop economic incentives, where appropriate, to apply clean technologies and other means consistent with the internalization of environmental costs, such as the "polluter pays" principle, so as to avoid degradation of the marine environment;

(e) To improve the living standards of coastal populations, particularly in developing countries, so as to contribute to reducing the degradation of the coastal and marine environment.

10. As set out in paragraph 17.23 of Agenda 21, States agree that provision of additional financial resources, through appropriate international mechanisms, as well as access to cleaner technologies and relevant research, would be necessary to support action by developing countries to implement this commitment.

11. Agenda 21 linked the implementation of those duties with action to implement commitments to integrated management and sustainable development of the marine environment, including coastal areas under national jurisdiction. In this regard, States agreed to implement the provisions of the programme of action adopted at the

World Coast Conference in Noordwijk in 1993 and to further develop those provisions in order to make them more operational.

12. Agenda 21 also linked action to combat marine degradation caused by land-based activities to action to address the specific problems of small island developing States. In this regard, States agreed to implement the provisions of the priority areas of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados in 1994.

13. In order to promote, facilitate and finance implementation of Agenda 21 by developing countries, an objective of Agenda 21 is to provide additional financial resources that are both adequate and predictable. Another objective in this context is to promote, facilitate and finance, as appropriate, the access to and the transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries, on favourable terms, including concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries for the implementation of Agenda 21.

D. The Global Programme of Action

14. The Programme of Action, therefore, is designed to be a source of conceptual and practical guidance to be drawn upon by national and/or regional authorities in devising and implementing sustained action to prevent, reduce, control and/or eliminate marine degradation from land-based activities. Effective implementation of this Programme of Action is a crucial and essential step forward in the protection of the marine environment and will promote the objectives and goals of sustainable development.

15. The Global Programme of Action reflects the fact that States face a growing number of commitments flowing from Agenda 21 and related conventions. Its implementation will require new approaches by, and new forms of collaboration among, Governments, organizations and institutions with responsibilities and expertise relevant to marine and coastal areas, at all levels -national, regional and global. These include the promotion of innovative financial mechanisms to generate needed resources.

II. ACTIONS AT THE NATIONAL LEVEL

Basis for action

16. Sustainable use of the oceans depends on the maintenance of ecosystem health, public health, food security, and economic and social benefits including cultural values. Many countries depend on sources of income from activities that would be directly threatened by degradation of the marine environment: industries such as fishing and tourism are obvious examples. The subsistence economy of large coastal populations, in particular in the developing countries, is based on marine living resources that would also be threatened by such degradation. Also to be considered are the impacts of such degradation on maritime culture and traditional lifestyles.

17. Food security is threatened, in particular in developing countries, by the loss of marine living resources that are vital for the adequate provision of food and for combating poverty. Public health considerations from a degraded marine environment manifest themselves through the contamination of seafood, direct contact, such as through bathing, and the use of sea water in desalination and food-processing plants.

Objectives

18. To develop comprehensive, continuing and adaptive programmes of action within the framework of integrated coastal area management which should include provisions for:

(a) Identification and assessment of problems;
(b) Establishment of priorities;
(c) Setting management objectives for priority problems;

(d) Identification, evaluation and selection of strategies and measures, including management approaches;
(e) Criteria for evaluating the effectiveness of strategies and programmes;
(f) Programme support elements.

Actions

19. States should, in accordance with their policies, priorities and resources, develop or review national programmes of action within a few years and take forward action to implement these programmes with the assistance of the international cooperation identified in chapter IV, in particular to developing countries, especially the least developed countries, countries with economies in transition and small island developing States (hereinafter referred to as "countries in need of assistance"). The effective development and implementation of national programmes of action should focus on sustainable, pragmatic and integrated environmental management approaches and processes, such as integrated coastal area management, harmonized, as appropriate, with river basin management and land-use plans.

20. Recommended actions to give effect to the objectives in the development of national programmes of action by States are summarized in sections A, B, C, D, E and F below. They are illustrated in more detail in the actions and targets identified in chapter V below.

A. Identification and assessment of problems

21. The identification and assessment of problems is a process of combining five elements:

(a) Identification of the nature and severity of problems in relation to:

(i) Food security and poverty alleviation;

(ii) Public health;

(iii) Coastal and marine resources and ecosystem health, including biological diversity;

(iv) Economic and social benefits and uses, including cultural values;

(b) Contaminants:

(not listed in order of priority)

(i) Sewage;

(ii) Persistent organic pollutants;

(iii) Radioactive substances;

(iv) Heavy metals;

(v) Oils (hydrocarbons);

(vi) Nutrients;

(vii) Sediment mobilization;

(viii) Litter;

(c) Physical alteration, including habitat modification and destruction in areas of concern;

(d) Sources of degradation

1. Point sources (coastal and upstream), such as:

(not listed in order of priority)

(i). Waste-water treatment facilities;

(ii). Industrial facilities;

(iii). Power plants;

(iv). Military installations;

(v). Recreational/tourism facilities;

(vi). Construction works (e.g., dams, coastal structures, harbour works and urban expansion);

(vii). Coastal mining (e.g., sand and gravel);

(viii). Research centres;

(ix). Aquaculture;

(x). Habitat modification (e.g., dredging, filling of wetlands or clearing of mangrove areas);

(xi). Introduction of invasive species;

2. Non-point (diffuse) sources (coastal and upstream), such as:

(not listed in order of priority)

(i). Urban run-off;

(ii). Agricultural and horticultural run-off;

(iii). Forestry run-off;

(iv). Mining waste run-off;

(v). Construction run-off;

(vi). Landfills and hazardous waste sites;

(vii). Erosion as a result of physical modification of coastal features;

3. Atmospheric deposition caused by:

(i). Transportation (e.g., vehicle emissions);

(ii). Power plants and industrial facilities;

(iii). Incinerators;

(iv). Agricultural operations;

(e) Areas of concern (what areas are affected or vulnerable):

(not listed in order of priority)

(i) Critical habitats, including coral reefs, wetlands, seagrass beds, coastal lagoons and mangrove forests;

(ii) Habitats of endangered species;

(iii) Ecosystem components, including spawning areas, nursery areas, feeding grounds and adult areas;

(iv) Shorelines;

(v) Coastal watersheds;

(vi) Estuaries and their drainage basins;

(vii) Specially protected marine and coastal areas; and

(viii) Small islands.

B. Establishment of priorities

22. Priorities for action should be established by assessing the five factors described above and should specifically reflect:

(a) The relative importance of impacts upon food security, public health, coastal and marine resources, ecosystem health, and socio-economic benefits, including cultural values, in relation to:

(i) Source-categories (contaminants, physical alteration, and other forms of degradation and the source or practice from which they emanate);

(ii) The area affected (including its uses and the importance of its ecological characteristics);

(b) The costs, benefits and feasibility of options for action, including the long-term cost of no action.

23. In the process of establishing priorities for action and throughout all stages of developing and implementing national programmes of action, States should:

(a) Apply integrated coastal area management approaches, including provision to involve stakeholders, in particular local authorities and communities and relevant social and economic sectors, including non-governmental organizations, women, indigenous people and other major groups;

(b) Recognize the basic linkages between the freshwater and marine environments through, *inter alia*, application of watershed management approaches;

(c) Recognize the basic linkages between sustainable management of coastal and marine resources, poverty alleviation and protection of the marine environment;

(d) Apply environmental impact assessment procedures in assessing options;

(e) Take into account the need to view such programmes as an integrated part of existing or future comprehensive environmental programmes;

(f) Take steps to protect: (i) critical habitats, using community-based participatory approaches that are consistent with current approaches to conservation and uses compatible with sustainable development; and (ii) endangered species;

(g) Integrate national action with any relevant regional and global priorities, programmes and strategies;

(h) Establish focal points to facilitate regional and international cooperation;

(i) Apply the precautionary approach and the principle of intergenerational equity.

24. The precautionary approach should be applied through preventive and corrective measures based on existing knowledge, impact assessments, resources and capacities at national level, drawing on pertinent information and analyses at the subregional, regional and global levels. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent the degradation of the marine environment.

C. Setting management objectives for priority problems

25. On the basis of the priorities established, States should define specific management objectives, both with respect to source categories and areas affected. Such objectives should be set forth in terms of overall goals, targets and timetables, as well as specific targets and timetables for areas affected and for individual industrial, agricultural, urban and other sectors. Wherever possible, States should take immediate preventive and remedial action using existing knowledge, resources, plans and processes.

D. Identification, evaluation and selection of strategies and measures

26. Strategies and programmes to achieve these management objectives should include a combination of:

(a) Specific measures, including, as appropriate:

(i) Measures to promote sustainable use of coastal and marine resources and to prevent/reduce degradation of the marine environment, such as:

a. Best available techniques (*) and best environmental practices, including substitution of substances or processes entailing significant adverse effects;

b. Introduction of clean production practices, including efficient use of energy and water in all economic and social sectors;

c. Application of best management practices;

d. Use of appropriate, environmentally sound and efficient technologies;

e. Product substitution;

(ii) Measures to modify contaminants or other forms of degradation after generation, such as:

a. Waste recovery;

b. Recycling, including effluent reuse;

c. Waste treatment;

(iii) Measures to prevent, reduce or ameliorate degradation of affected areas, such as:

a. Environmental quality criteria with biological, physical and/or chemical criteria for measuring progress;

b. Land-use planning requirements, including criteria for siting of major facilities;

c. Rehabilitation of degraded habitats;

(b) Requirements and incentives to induce action to comply with measures, such as:

(i) Economic instruments and incentives, taking into account the "polluter pays" principle and the internalization of environmental costs;

(ii) Regulatory measures;

(iii) Technical assistance/cooperation, including training of personnel;

(iv) Education and public awareness;

(c) Identification/designation of the institutional arrangement with the authority and resources to carry out management tasks associated with the strategies and programmes, including implementation of compliance provisions;

(d) Identification of short-term and long-term data-collection and research needs;

(e) Development of a monitoring and environmental-quality reporting system to review and, if necessary, help adapt the strategies and programmes;

(f) Identification of sources of finance and mechanisms available to cover the costs of administering and managing the strategies and programmes.

E. Criteria for evaluating the effectiveness of strategies and measures

27. A key element in successful strategies and programmes is to develop ongoing means of determining whether they are meeting their management objectives. States should develop specific criteria to evaluate the effectiveness of such strategies and programmes. While such criteria must be tailored to the particular mix of elements (illustrated in section C above) in each strategy or programme, they should address:

(a) Environmental effectiveness;

(b) Economic costs and benefits;

(c) Equity (costs and benefits of the strategy or programme are being shared fairly);

(d) Flexibility in administration (the strategy or programme can adapt to changes in circumstances);

(e) Effectiveness in administration (management of the strategy or programme is cost-effective and accountable);

(f) Timing (the timetable needed to put the strategy or programme in place and to begin producing results);

(g) Inter-media effects (the achievement of the objectives of the strategy or programme creates a net environmental benefit).

F. Programme support elements

28. The long-term objective of national programmes of action should be to develop integrated strategies and programmes to address all action priorities in relation to impacts upon the marine environment from land-based activities. In addition, the programmes of action must themselves be integrated with overall national objectives and other relevant programmes in relation to sustainable development. States therefore should seek to ensure that there are administrative and management structures necessary to support the national programmes of action. These include, as appropriate:

(a) Organizational arrangements to coordinate among sectors and sectoral institutions;

(b) Legal and enforcement mechanisms (e.g., need for new legislation);

(c) Financial mechanisms (including innovative approaches to provide continuing and predictable programme funding);

(d) Means of identifying and pursuing research and monitoring requirements in support of the programme;

(e) Contingency planning;

(f) Human resources development and education;

(g) Public participation and awareness (e.g., based on integrated coastal area management principles).

III. REGIONAL COOPERATION

Basis for action

29. Regional and subregional cooperation and arrangements are crucial for successful actions to protect the marine environment from land-based activities. This is particularly so where a number of countries have coasts in the same marine and coastal area, most notably in enclosed or semi-enclosed seas. Such cooperation allows for more accurate identification and assessment of the problems in particular geographic areas and more appropriate establishment of priorities for action in these areas. Such cooperation also strengthens regional and national capacity-building and offers an important avenue for harmonizing and adjusting measures to fit the particular environmental and socio-economic circumstances. It, moreover, supports a more efficient and cost-effective implementation of the programmes of action.

Objectives

30. To strengthen and, where necessary, create new regional cooperative arrangements and joint actions to support effective action, strategies and programmes for:

(a) Identification and assessment of problems;

(b) Establishment of targets and priorities for action;

(c) Development and implementation of pragmatic and comprehensive management approaches and processes;

(d) Development and implementation of strategies to mitigate and remediate land-based sources of harm to the coastal and marine environment.

Activities

A. Participation in regional and subregional arrangements

31. States should:

(a) Pursue more active participation, including accession or ratification, as appropriate, in regional seas and other international marine and freshwater agreements, conventions and related arrangements;

(b) Strengthen existing regional conventions and programmes, and their institutional arrangements;

(c) Negotiate as, appropriate, new regional conventions and programmes.

B. Effective functioning of regional and subregional arrangements

32. With respect to the institutional aspects of regional and subregional arrangements, States should:

(a) Invite multilateral financing agencies, including regional development banks, and national institutions for bilateral development cooperation to cooperate in programming and in national implementation of

regional agreements in the developing country regions;

(b) National action strategies and programmes can sometimes be best developed in a regional and subregional context. In developing such programmes of action, due consideration should be given to the suggested approaches and targets identified in chapter V of the present Programme of Action, and to the methodology specified in chapter II above. The programmes of action should be developed and implemented on a timetable appropriate to regional or subregional circumstances and decided upon by the governing bodies of the regional or subregional agreements, conventions or arrangements as appropriate;

(c) Establish or strengthen regional information networks and linkages for communicating with clearing-houses and other sources of information;

(d) Ensure close collaboration between the national and regional focal points and regional economic groupings, other relevant regional and international organizations, development banks and regional rivers authorities/commissions, in the development and implementation of regional programmes of action;

(e) Encourage and facilitate cooperation between and among regional organizations/conventions to promote the exchange of information, experience and expertise;

(f) Ensure that there is adequate secretariat support for regional and subregional arrangements (legal agreements and programmes of action), including:

(i) Clear definition of secretariat functions and responsibilities;

(ii) Consolidation of secretariats, including reliance on existing institutional arrangements, where cost-effective;

(iii) Cooperation between secretariats;

(iv) Close integration of regional and subregional programmes of action and the relevant legal agreements that apply to the region and subregion.

33. In the development and implementation of the regional programmes of action, consideration should also be given to the following:

(a) Steps towards harmonization of environmental and control standards for emissions and discharges of pollutants, and agreement on data-quality assurance standards, data validation, comparative analyses, reference methods and training that are required for reliable monitoring and assessment carried out for the protection of the marine environment from land-based activities;

(b) Steps to protect critical habitats and endangered species;

(c) Exploring the use of innovative financing mechanisms that will assist the implementation of national and regional programmes of action;

(d) Building capacity and, where appropriate, identifying regional centres of excellence for research, management tools and concepts, training and capacity-building as well as contingency-planning, monitoring and assessment, including environmentally sound technology assessment;

(e) Arrangements to ensure that decision-making at the regional level is based on an integrated planning and management approach adopted at the national level;

(f) Establishment of linkages with regional or subregional fisheries arrangements, as well as other mechanisms dealing with conservation of marine species, to promote collaboration in the exchange of data and information and mutual reinforcement in the achievement of respective objectives.

34. Land-locked States whose river systems and drainage basins are linked to a particular marine region or subregion should be encouraged to participate in the relevant regional and subregional arrangements for:

(a) Identification and characterization of drainage basins that are closely linked to degradation of the

coastal areas and the marine environment;

(b) Assessment of, and monitoring of, industrial activities and practices that are associated with degradation of the marine environment;

(c) Establishment or strengthening of national environmental management and surveillance institutions and networks that are consistent with regional seas agreements or other arrangements.

35. States should encourage, where appropriate, regions to enter into intergovernmental cooperation in order to rationalize experiences and to help implement policies. Intergovernmental cooperation may also be necessary to promote coordination of efforts for the protection and preservation of marine ecosystems and habitats.

IV. INTERNATIONAL COOPERATION

Basis for action

36. Effective international cooperation is important for the successful and cost-effective implementation of the Programme of Action. International cooperation serves a central role in enhancing capacity-building, technology transfer and cooperation, and financial support. Moreover, effective implementation of the Programme of Action requires efficient support from appropriate international agencies. Furthermore, international cooperation is required to ensure regular review of the implementation of the Programme and its further development and adjustment.

37. At the global level, there is a need for regular reviews of the state of the world marine environment, as well as dialogues, based on reports from relevant regional organizations on implementation of regional action programmes, including exchange of experiences, the flow of financial resources in support of the implementation, in particular by countries in need of assistance, of national action to prevent and reduce marine degradation caused by land-based activities as well as scientific and technological cooperation, and transfer of cleaner technology, in particular to countries in need of assistance.

Objective

38. To strengthen existing international cooperation and institutional mechanisms and, where appropriate, to establish new arrangements, in order to support States and regional groups to undertake sustained action to address impacts upon the marine environment from land-based activities. Such actions should be based on the commitments with respect to financial resources contained in chapter 33 of Agenda 21, including paragraph 33.11, and those with respect to transfer of environmentally sound technology, cooperation and capacity-building contained in chapter 34 of Agenda 21, including paragraphs 34.4 and 34.18, as well as the commitments contained in paragraphs 17.23 and 17.48.

Activities

39. Recommended actions to give effect to these objectives in support of national and regional action to prevent and reduce marine degradation caused by land-based activities fall into four general categories:

(a) Capacity-building;

(b) The mobilization of financial resources;

(c) The international institutional framework;

(d) Additional areas of international cooperation.

A. Capacity-building

40. The mechanisms and cooperative actions should include:

(a) The mobilization of experience in support of national and regional action to prevent and reduce marine degradation caused by land-based activities;

(b) A clearing-house mechanism.

These mechanisms and cooperative actions should take into account the special needs of countries in need of assistance, including support for the establishment of infrastructures and the development of action programmes, as well as the alternatives and solutions that such countries are able to offer.

1. Mobilization of experience and expertise

41. States should cooperate to ensure that the most up-to-date information, experience and technical expertise with respect to each source-category of impacts upon the marine environment from land-based activities are made available and brought to bear upon national and regional actions to address such impacts. The steps to this end should include:

(a) Establishment of linkages with international and regional organizations, including specialized agencies, with relevant expertise and responsibilities with respect to particular sources and sectors;

(b) Promotion of cooperative interaction with private-sector groups and non-governmental organizations to introduce cost-effective and environmentally sound practices;

(c) Facilitation and promotion of access, in particular for countries in need of assistance, to new and innovative technologies relevant to each source-category of impacts upon the marine environment from land-based activities, including those causing physical degradation and destruction of habitats;

(d) Promotion of cleaner production techniques, inter alia, through training of industry personnel;

(e) Promotion of new information technologies that facilitate knowledge transfer within countries and between States, including, in particular, from developed countries to countries in need of assistance;

(f) Facilitation of access to sources (public or private, national or multilateral) of technical advice and assistance with respect to particular source-categories and sectors;

(g) Facilitation of identification of opportunities for projects contributing to sustainable development for the private sector, including by industry and banks;

(h) Establishment of linkages with the activities of ongoing international programmes monitoring and assessing the state of marine environment and relevant river systems, for example, the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP), the Global Ocean Observing System (GOOS), the Global Investigation of Pollution in the Marine Environment (GIPME), the Global Environment Monitoring System/Water, and the World Hydrological Cycle Observing System; and

(i) Establishment of linkages with international organizations, including specialized agencies and other organizations of the United Nations system, for dealing with environmental emergencies.

2. Clearing-house

42. As a means of mobilizing experience and expertise, including facilitation of effective scientific, technical and financial cooperation, as well as capacity-building, States should cooperate in the development of a clearing-house mechanism, i.e., a referral system through which decision makers at the national and regional level are provided with access to current sources of information, practical experience and scientific and technical expertise relevant to developing and implementing strategies to deal with the impacts of land-based activities. The referral system would be designed to allow decision makers to establish rapid and direct contact with the organizations, institu-

tions, firms and/or individuals most able to provide relevant advice and assistance. It would therefore be a mechanism for responding to requests from national Governments on a timely basis. The clearing-house would consist of three basic elements:

(a) A data directory, with components organized by source- category, cross-referenced to economic sectors, containing information on current sources of information, practical experience and technical expertise;

(b) Information-delivery mechanisms to allow decision makers to have ready access to the data directory and obtain direct contact with the sources of information, practical experience and technical expertise identified therein (including the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance);

(c) Infrastructure - the institutional process for developing, organizing and maintaining the directory and delivery mechanisms.

43. Data directory. The data directory would include a component for each source-category delineated in this Programme of Action. Each such component would contain descriptions and contact information for each existing database and source of practical information and technical expertise. The descriptions and contact information would allow decision makers to determine which sources of information, experience and expertise are most relevant in a given situation and to contact these sources quickly. A key prerequisite for maintaining the directory is regular review of the descriptions and contact information to ensure that it is up-to-date. For each source-category, the relevant databases and sources of information, experience and expertise are likely to be dispersed among a large number of institutions and repositories, including global and regional organizations and national Governments, the private sector and non-governmental organizations. These institutions and repositories should be fully involved in the development of the data directory component for that source-category. In this way, the directory and its components should be built upon, not replicate, the work of organizations such as the World Bank, the United Nations Development Programme (UNDP), UNEP, including the UNEP International Cleaner Production Information Clearinghouse (UNEP/ICPIC), the International Atomic Energy Agency (IAEA), the International Maritime Organization (IMO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Centre for Human Settlements (UNCHS) (Habitat), the United Nations Industrial Development Organization (UNIDO), the World Health Organization (WHO) and the Arctic Monitoring and Assessment Programme (AMAP). It should in addition make full use of the Small Island Developing States Network (SIDS-NET). Where appropriate, it should also draw upon the work of other intergovernmental and non-governmental organizations and the private sector.

44. Each data-directory component should be organized so as to identify:

(a) Sources of current information, practical experience and technical expertise on:

(i) The nature, pathways, fate and effects of the contaminants or other forms of degradation, including data-quality assurance techniques;

(ii) Standards and reference methods for monitoring contamination, as well as its concentrations, or other forms of degradation, including biological-effects monitoring and data-quality assurance techniques;

(iii) Policies, measures and strategies for action, including mobilization and generation of resources, that have been successfully applied (and those that have been unsuccessful) in addressing activities generating the source-category contaminants or other forms of degradation (what works and what does not); and

(iv) Economically rational, environmentally sound and cleaner practices, techniques and technologies to prevent, mitigate and/or control adverse impacts on the marine environment of land-based activities;

(b) Sources of relevant information:

(i) In international and regional organizations (including non-governmental organizations) with relevant expertise and experience; and

(ii) Concerning intergovernmental and private sources of assistance, scientific, technical and financial, including such matters as the terms and conditions for the provision of such assistance.

45. Information-delivery mechanisms. The clearing-house mechanism must include simple and widely available means of gaining entry to the directory and retrieving information from its components, including directing inquiries to the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance. In other words, the data directory must be easily accessible to decision makers on a real-time basis. The objective would be user-friendly access to the data directory and its components through electronic means. The World Wide Web on the Internet offers such a basic access mechanism. It is recognized, however, that the Internet is not universally available. It is important, therefore, to also use and build upon existing information-delivery systems, including the UNDP network of resident representatives, INFOTERRA, and linked regional systems, including the secretariats of regional seas and other regional conventions.

46. Infrastructure. The development, organization and maintenance of the data directory and its components and the delivery mechanisms have both specific (source-category) and general dimensions. At the general level, an inter-organizational group should be established by the relevant international organizations to coordinate the basic design and structure of the data directory as well as its linkages to information-delivery mechanisms. This group would be responsible for establishing a common format for the individual source-category components and for cross-referencing among components. It would include representatives of each lead organization responsible for coordinating development of individual data-directory components, those responsible for information-delivery mechanisms, and experts on information technology and other relevant fields.

47. For each source-category component of the data directory, a lead organization should be designated to convene or designate a group of experts to develop the content of specific entries for that component. Issues such as ensuring that entries meet quality and relevance criteria and keywords or search items relevant to the source-category would also be the responsibility of each group of experts. There would be provision to reconvene each such group periodically to update the source-category component, including ensuring that the sources of information, practical experience and technical expertise are relevant and do represent the best sources.

48. Recognizing that many developing States may not have the necessary capacity to benefit from the clearing-house mechanism, this process of implementation should provide for capacity- building, including technical training and infrastructure development.

49. The clearing-house mechanism should be designed to include feedback functions to provide for its refinement and evolution to meet the needs of its users. These feedback functions include:

(a) Identification of data and information gaps and recommendations as to how to address such gaps;

(b) Identification of training and infrastructure requirements for those using the clearing-house mechanism;

(c) Provision for establishment of links between the clearing-house mechanism and regional agreements, institutions and centres holding information, experience and technical expertise of specific relevance to the region concerned.

B. Mobilizing financial resources

50. Alongside the mobilization of experience and expertise, the mobilization of financial resources is the other indispensable foundation for the development and implementation of national and regional programmes for the protection of the marine environment from land-based activities. It is recognized that the development of national and regional action programmes are of primary international importance.

51. While States recognize that, in general, the financing for the implementation of the national and regional programmes of action that will embody this Global Programme of Action should come from each country's own public and private sectors, they reaffirm:

(a) Their conclusion that international cooperation for sustainable development should be strengthened in order to support and complement the efforts of countries in need of assistance;

(b) Their acknowledgement that, for countries in need of assistance, substantial new and additional funding will be required for the actions flowing from Agenda 21;

(c) Their commitment that such funding should be provided in a way that maximizes the availability of new and additional resources and uses all available funding sources and mechanisms, as set out in paragraph 17.23 and, more generally, in chapter 33 of Agenda 21.

52. There is increasing realization worldwide of the need for action to protect the world's marine environment, described in the opening paragraphs of this Programme. Equally, it is increasingly realized that land-based activities are the predominant source of adverse impacts on the marine environment. This realization should lead to a correspondingly greater political emphasis, at national, regional and global levels, on the need to ensure the mobilization of the necessary funding for the action needed within the framework of integrated management of coastal zones and, where appropriate, associated watersheds. This in turn should be translated into an increased willingness by partners for international development cooperation to provide financing, including on concessionary and preferential terms, for projects aimed at fulfilling the objectives of this Programme of Action.

1. Scale of funding required

53. There are major differences among the different regions of the world, and the States which they comprise, in terms of geography, physiography, and ecology and, above all, in economic and social conditions, level of development and regional cooperation. In many cases, as well, the impacts on the marine environment of various contaminants and forms of physical disturbance will have different degrees of importance. All these variations will lead to different judgments on the appropriate priorities to be given to tackling the different problems mentioned in chapters II and III above. Each State will therefore develop its own appropriate set of priorities for the tasks that it decides to undertake to protect the marine environment, and these priorities will be reflected in the composition and scale of its national programme of action and any regional programme in which it participates.

54. The amount of funding required for implementation of the present Programme, and the mix of sources and mechanisms that is appropriate, will therefore flow from these national decisions on priorities. The differing national priorities, the range of actions which may need to be undertaken and the variety of sources and mechanisms which may be used, separately or in combination, to finance them mean that there will be significant variations between States in the approach to mobilizing financial resources, in particular between developed and developing States.

2. Range of financing possibilities

55. The funding of action to address the priorities at the national and regional levels, consistent with chapters II, III and V of this Programme, requires, in the first place, the identification of all the various potential domestic funding sources and mechanisms, in order to determine which are appropriate for the priority concerned, and to find ways of linking them in an innovative fashion. An illustrative list of domestic sources and mechanisms is set out in the annex to the present Programme of Action. There will be differences between States, particularly between developed countries and countries in need of assistance, in the extent to which use of these various options is possible. As part of the preparation of their national plans, States should evaluate the potential of these options.

56. For many States, whether developed, developing or in economic transition, it will also be appropriate to look more widely for appropriate sources of financial resources and mechanisms to mobilize them effectively. Funding from domestic sources and mechanisms may be insufficient, particularly for countries in need of assistance. An illustrative list of external sources and mechanisms is also included in the annex to the present Programme of Action. Where appropriate, in the preparation of their national programmes, States should investigate the potential roles of such sources and mechanisms.

57. For countries in need of assistance, there is a limited level of domestic resources available and a wide range of demanding challenges to be faced in many fields. Where the lack of domestic financial resources means that projects in such countries will not be able to proceed, there will be recourse to external financing, particularly funding through grants and concessionary loans. In other cases, external financing, through various innovative schemes (such as co-financing and joint ventures, underwriting of country risks, and venture capital funds) can also act as a catalyst for the mobilization of domestic financial resources and provide leverage to attract addition-

al external financial resources in order to mobilize more efficiently new financial flows.

3. Funding the programmes

58. National and regional programmes should ensure that there is a balance between the projects to be undertaken to implement national and regional priorities and the sources of funding available.

59. Where recourse to external sources and mechanisms for financial resources is necessary, the mix of the various possibilities that will be appropriate will vary from country to country. The pattern of funding will have to be determined in accordance with the decisions on individual projects.

60. Further, countries in need of assistance may need help in capacity-building for:

(a) Development of national programmes of action;

(b) Preparation of national assessments on each source-category;

(c) Identification of ways and means of funding the implementation of the national plans.

61. National and international financial institutions, bilateral donors and other competent regional and international organizations should assist in this capacity-building task.

62. As part of the process of ensuring that intergovernmental agencies and other international bodies take due account of this Programme of Action, and in view of the particular significance of external finance for countries in need of assistance, it will be necessary for those international agencies concerned with the provision of finance, particularly in the form of grants and concessionary loans, to ensure that their policies give appropriate priority to assistance for projects aimed at the implementation of the Programme. A similar approach is also needed for bilateral assistance. International financial institutions should provide information on the amounts and terms of the financial resources that they might provide, in particular to countries in need of assistance.

63. Improved cooperation and coordination is essential among national institutions, international organizations, including financial institutions, and the private sector and non-governmental organizations, to enhance the effectiveness of the delivery of financial and other support.

64. Mobilizing financial resources is not a one-off task. As part of the follow-up process to this Programme, periodical reviews should be undertaken by the intergovernmental meetings referred to in paragraph 77 below as to whether it has been possible to achieve an appropriate balance between the scale and type of funding required and that which has been available in practice. In the light of such reviews, a conclusion will have to be reached on any problems encountered over access to new and additional funding sources and mechanisms, in accordance with the commitments in Agenda 21.

4. Recommended approaches for projects to be funded

65. The recommendations set out below are intended to highlight features which are important for partners in international development cooperation in the design and evaluation of, and for decisions on, projects for the protection of the marine environment for which external financing is to be sought. With appropriate modifications, they will also apply where a national or regional programme contains a series of related projects.

66. Projects need to be prepared in the context of the overall national or regional strategies, policies and programmes related to the protection of the marine environment, on the basis of its sustainable use and development. Accordingly:

(a) Projects should be derived from the priorities established nationally for the prevention, control and reduction of marine and coastal degradation within the framework of integrated management of coastal zones and, where appropriate, their associated watersheds, and consistent with the national sustainable development strategy;

(b) Chapters II, III and V of this Programme should provide the policy framework for the identification

of priorities;

(c) Projects should be consistent with the principles and duty set out in chapter I above.

67. The goals for projects responding to the impact of land-based activities upon the marine environment include:

(a) Protection of the health and public amenities of coastal populations, in particular those suffering from poverty and food insecurity, including addressing sewage and industrial effluents;

(b) Conservation of marine living resources, including maintenance or increase of future options for their sustainable use;

(c) Conservation and sustainable use, including restoration, of coastal and marine biological diversity;

(d) Protection, including restoration, of habitats of marine living resources, including critical spawning and feeding areas, as well as areas used or suitable for mariculture;

(e) Alleviation of poverty as a means of reducing pressure on coastal and marine environments;

(f) Addressing, where appropriate, management of associated watersheds.

68. Other features which will make projects more likely to be effective or which will enhance their value generally include:

(a) The involvement of user and local communities that are interested, particularly the economic and social sectors affected;

(b) Consultation with organized civil society and non-governmental organizations, and the private sector;

(c) Provision for capacity-building and the development of institutions, including relevant technology and management training, human-resources development and public outreach and education;

(d) Coordination between those providing external support when several international development partners are involved;

(e) Partnerships and co-financing with the private sector;

(f) Promotion of knowledge and understanding of the marine environment;

(g) Innovation and replicability.

5. The Global Environment Facility

69. The Global Environment Facility (GEF) provides new and additional grants and concessionary loans to eligible countries to meet the agreed environmental costs of measures to achieve agreed global incremental benefits in four focal areas: climate change, biological diversity, international waters and ozone-layer depletion. The agreed incremental costs of activities concerning land degradation, primarily desertification and deforestation, as they relate to the four focal areas, are also eligible for funding. The international waters and biodiversity focal areas are most directly related to the goals of this Programme of Action, although links between land-based activities and other focal areas should be recognized. Where consistent with its operational strategies, GEF assistance can play an important role in catalysing the necessary national and regional action to address those international concerns identified in this Programme which ultimately have global linkages and global policy implications. GEF funding cannot, however, be a substitute for ordinary development aid.

70. GEF is invited to build upon the work that will be undertaken to implement this Programme of Action and fund the agreed incremental costs of activities consistent with the GEF operational strategy. It is also invited to consider:

(a) Reflecting the unity of the marine environment and its linkages to freshwater systems;

(b) Recognizing that, while the focal area of international waters is to be distinct from other areas of GEF funding, land-based activities may have links both with it and with biological diversity and climate change;

(c) Recognizing the international significance of transboundary pollution which may have its origin in a local area;

(d) Recognizing that, even where pollution or its root cause is confined to a local area, some types of pollution may affect the waters of more than one State, and thus be of international significance;

(e) Including, where appropriate, clearly defined and targeted research and monitoring within projects.

71. States welcome the priority to be given by the GEF operational strategy for international waters to impacts upon the marine environment from land-based activities.

C. International institutional framework

72. A number of international organizations and institutions, including non-governmental organizations, regional and global, have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from one or more of the source-categories of land-based activities. The international institutional framework for implementation of this Programme of Action, therefore, should be based upon concerted action by States within the relevant organizations and institutions to accord attention and priority to impacts on the marine environment from land-based activities and concerted action by States to ensure effective coordination and collaboration among such organizations and institutions. In addition, the framework should make provision for regular review of the Programme of Action, including its implementation and necessary adjustments.

73. The process of developing this institutional framework will require a series of interlinked steps. States should commit themselves to taking action within the international organizations and institutions with responsibilities and experience regarding impacts upon the marine environment from land-based activities:

(a) To secure formal endorsement of those parts of the Programme of Action that are of relevance to such organizations and institutions;

(b) To accord priority to the prevention, reduction and control of impacts upon the marine environment from land-based activities through the economic, social and environmental mandates of such organizations and institutions; and

(c) To review regularly the state of knowledge and the state of the art with respect to the prevention, reduction and control of impacts upon the marine environment from land-based activities through the economic, social and environmental mandates of such organizations and institutions.

74. Recognizing that States have the primary role in the implementation of this Programme of Action, UNEP, as the coordinator and catalyst of environmental activities within the United Nations system and beyond, should, through its programmes and secretariat role:

(a) Promote and facilitate implementation of the Programme of Action at the national level;

(b) Promote and facilitate implementation at the regional, including subregional, level through, in particular, a revitalization of the Regional Seas Programme; and

(c) Play a catalytic role in the implementation at the international level with other organizations and institutions.

75. It is important that in fulfilling this role, including the secretariat function, UNEP should undertake it in an efficient and cost-effective manner, supported largely by the existing resources, expertise and infrastructure available in all components of UNEP's programmes. UNEP should be flexible and responsive to the evolving needs of the Programme and the availability of resources, e.g. from trust funds.

76. In facilitating the effective implementation of the Programme of Action, UNEP should maintain a close partnership with other organizations and bodies, such as IMO, WHO, FAO, the World Meteorological Organization (WMO), UNDP, UNIDO, the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO/IOC), IAEA, the World Bank and regional development banks, GEF and UNCHS (Habitat), as well as regional bodies supporting the implementation of regional seas and relevant freshwater programmes. An appropriate division of tasks is of essential importance to ensure the efficient and cost-effective implementation of the Programme of Action.

77. UNEP should, in close collaboration with the relevant organizations and institutions, convene periodic intergovernmental meetings to:

(a) Review progress on implementation of the Programme of Action;

(b) Review the results of scientific assessments regarding land-based impacts upon the marine environment provided by relevant scientific organizations and institutions, including GESAMP;

(c) Consider reports provided on national plans to implement the Programme of Action;

(d) Review coordination and collaboration among organizations and institutions, regional and global, that have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from land-based activities;

(e) Promote exchange of experience between regions;

(f) Review progress on capacity-building (section A of this chapter) and on mobilization of resources (section B of this chapter) to support the implementation of the Programme of Action, in particular by countries in need of assistance and, where appropriate, provide guidance;

(g) Consider the need for international rules, as well as recommended practices and procedures, to further the objectives of the Programme of Action.

78. In preparation for these meetings, States should be encouraged to provide reports, directly or through relevant regional organizations, on the implementation of the Programme of Action. Non-governmental organizations would also be invited to report on relevant activities.

79. A component of the institutional framework for implementation of the Programme of Action is establishment of the clearing-house mechanism called for in section A of this chapter. This will require collaboration between UNEP and a variety of international organizations and institutions, including the United Nations system and international financial institutions. Specific steps include:

(a) Determination of the composition and providing for the establishment of the inter-organizational steering group;

(b) Designation of lead organization(s) for the development and updating of each source-category component in the data directory;

(c) Identification of the appropriate mix of information-delivery systems.

Steps for developing institutional arrangements

80. The process of articulating the institutional framework to support and implement this Programme of Action cuts across existing institutional mandates and will require action within relevant international organizations and institutions, including those of the United Nations system and international financial institutions. It is recommended, therefore, that pertinent provisions outlined in this Programme of Action be set forth in a resolution to be adopted by the United Nations General Assembly at its fifty-first session.

81. The resolution would set forth commitment to the institutional framework outlined in the Programme of Action and agree on specific steps towards its establishment; including the clearing-house. Such steps would include identification of the international organizations and institutions, regional and global, with responsibilities and experience regarding impacts upon the marine environment from land-based activities.

82. It is recommended that the issue of the General Assembly resolution be specifically included on the agenda of the Commission on Sustainable Development for consideration in the context of its review of chapter 17 of Agenda 21, on oceans.

83. The Executive Director of UNEP is called upon to prepare a proposal setting forth a specific plan for implementing the institutional arrangements contained in this Programme of Action, including, in collaboration with other organizations, the preparation of a draft implementation plan and pilot project for the clearing-house. This proposal should be submitted to the inter-sessional meeting for the Commission on Sustainable Development, to be held in February 1996. This plan should include a clear indication of how UNEP intends to carry out its functions in this regard, including secretariat functions, its contributions to the clearing-house mechanism, proposals and action taken on coordination among relevant United Nations and other organizations and how the relevant UNEP programmes, including the Regional Seas Programme, could be strengthened to carry out an effective role in the implementation of this Programme of Action.

D. Additional areas of international cooperation

1. Waste-water treatment and management

84. In accordance with Agenda 21, especially its chapters 17 and 18, States should address the serious public health problems and the degradation of coastal ecosystems that result from the disposal in coastal areas of inadequately treated waste waters. This situation still affects many countries, particularly countries in need of assistance.

85. States agree that planning for pollution prevention, including cleaner-production approaches and best-practice urban design, and the treatment and management of urban waste water, including urban storm-water and separation of industrial effluent, are priorities in the fulfilment of the objectives of this Programme of Action and of Agenda 21. Mechanisms should be studied to expeditiously channel additional resources for this purpose to countries in need of assistance.

86. The Executive Director of UNEP, in close partnership with WHO, UNDP, UNCHS (Habitat) and other relevant organizations, is called upon to prepare a proposal setting forth a specific plan for addressing the global nature of the problems related to the inadequate management and treatment of waste water. This should take account of work already in progress in WHO and other competent international organizations, including the Noordwijk Action Programme. This plan will enable the issue to be addressed in an expeditious and efficient manner in the follow-up to the Global Programme of Action at the international level.

2. Persistent organic pollutants (POPs)

87. Consistent with decision 18/32 adopted by the UNEP Governing Council in May 1995, States should participate actively in the assessment and development of recommendations concerning the list of twelve substances identified in the UNEP decision.

88. There is agreement that:

(a) International action is needed to develop a global, legally binding instrument, amongst other international and regional actions, for the reduction and/or elimination of emissions and discharges, whether intentional or not, and, where appropriate, the elimination of the manufacture and the use of, and illegal traffic in, the persistent organic pollutants identified in UNEP Governing Council decision 18/32, for which the scientific and technical basis for action is already demonstrated, consistent with the principles of the Rio Declaration, in particular Principle 15;

(b) In developing the instrument called for above, the nature of the obligations undertaken must be developed recognizing the special circumstances of countries in need of assistance. Particular attention should be devoted to the potential need for the continued use of certain POPs and the difficulty of acquiring substitutes and of the transfer of technology for the development of those substitutes. This will require special consideration to be given to economically feasible and environmentally sound ways of ceasing to use, discharge or emit POPs selected for priority action. The reduction and/or elimination of use, emissions and

discharges of POPs should, if necessary, be taken on a step-by-step basis;

(c) The range of substances identified in UNEP Governing Council decision 18/32 require differentiated actions depending on their source, nature and use. For example, polychlorinated biphenyls (PCBs) require international cooperation for their proper management and disposal; unintended by-products, such as dioxins and furans, warrant investigation of best available technologies and alternative technologies; while pesticides require approaches addressing use and production;

(d) Furthermore, States should commit themselves to an open and transparent process to facilitate the work of the International Programme on Chemical Safety (IPCS), the Inter-Organization Programme for the Sound Management of Chemicals (IOMC) and the Intergovernmental Forum on Chemical Safety (IFCS), to assess and evaluate the environmental and socio-economic impact of other persistent organic pollutants consistent with the purpose, functions and priorities for action identified by IFCS with a view to their inclusion as appropriate in the global, legally binding instrument mentioned above.

89. To implement Governing Council decision 18/32, UNEP is undertaking a transparent process under the auspices of IOMC, involving Governments, industry, public-interest groups and relevant international organizations. This process is critical to ensuring a balanced consideration of the principal technical matters and central policy issues relevant to global action in this area.

90. States are encouraged to participate actively in the development of a legal instrument for the application of the prior informed consent (PIC) procedure for certain hazardous chemicals in international trade, consistent with UNEP Governing Council decision 18/12, adopted in May 1995.

V. RECOMMENDED APPROACHES BY SOURCE CATEGORY

91. This chapter provides guidance as to the actions that States should consider at national, regional and global levels, in accordance with their national capacities, priorities and available resources, and with the cooperation of the United Nations and other relevant organizations, as appropriate, and with the international cooperation for building capacities and mobilizing resources identified in chapter IV.

92. In the light of the differences between regions and States and the national priorities referred to in paragraphs 53 and 54 above, each State and each regional grouping should develop its own programme of action. This may or may not be a separate document but it should include specific targets and a clear timetable showing the dates by which the State or States involved commit themselves at a political level to achieve these targets.

93. In addition, action will be needed on certain matters at the global level, either to address global effects or to facilitate action at the national or regional levels. Specific targets for these matters are set out in this chapter.

A. Sewage

1. Basis for action

94. Recognizing variation in local conditions, domestic waste water improperly discharged to freshwater and coastal environments may present a variety of concerns. These are associated with: (a) pathogens that may result in human health problems through exposure via bathing waters or through contaminated shellfish, (b) suspended solids, (c) significant nutrient inputs, (d) biochemical oxygen demand (BOD), (e) cultural issues such as taboos in some areas, (f) plastics and other marine debris, (g) ecosystem population effects, and (h) heavy metals and other toxic substances, e.g. hydrocarbons, in those cases where industrial sources may have discharged effluent to municipal collection systems.

95. Environmental effects associated with domestic waste-water discharges are generally local with transboundary implications in certain geographic areas. The commonality of sewage-related problems throughout coastal areas of the world is significant. Consequently, domestic waste-water discharges are considered one of the most significant threats to coastal environments worldwide.

2. Objective/proposed target

96. With regard to objectives and targets, paragraph 21.29 of Agenda 21 states:

"Governments, according to their capacities and available resources and with the cooperation of the United Nations and other relevant organizations, as appropriate, should:

"(a) By the year 2000, establish waste treatment and disposal quality criteria, objectives and standards based on the nature and assimilative capacity of the receiving environment;

"(b) By the year 2000, establish sufficient capacity to undertake waste-related pollution impact monitoring and conduct regular surveillance, including epidemiological surveillance, where appropriate;

"(c) By the year 1995, in industrialized countries, and by the year 2005, in developing countries, ensure that at least 50 per cent of all sewage, waste waters and solid wastes are treated or disposed of in conformity with national or international environmental and health quality guidelines;

"(d) By the year 2025, dispose of all sewage, waste waters and solid wastes in conformity with national or international environmental quality guidelines."

3. Activities

(a) National actions, policies and measures

97. Actions, policies and measures of States within their national capacities should include:

(a) Identification of major sewage sources and areas where sewage poses major environmental and health-related hazards;

(b) Development of national programmes of action for the installation of appropriate and environmentally sound sewage facilities, and to this end ensure:

(i) Incorporation of sewage concerns when formulating or reviewing coastal-development and land-use plans, including human-settlements plans;

(ii) Building and maintenance of sewer systems and sewage-treatment facilities or other appropriate systems, in accordance with national policies and capacities and international cooperation available;

(iii) Location of coastal outfalls so as to obtain or maintain agreed environmental quality criteria and to avoid exposing shell fisheries, water intakes, and bathing areas to pathogens and to avoid the exposure of sensitive environments (such as lagoons, coral reefs, seagrass beds, mangroves, etc.) to excess nutrient loads;

(iv) Promotion of the reuse of treated effluents for the conservation of water resources. To this end, infrastructural measures, treatment at source and segregation of industrial effluents, shall be encouraged, as well as:

a. Encouragement of the beneficial reuses of sewage effluents and sludges by the appropriate design of treatment plants and processes and controls of the quality of influent waste waters;

b. Ensuring the environmentally sound treatment when domestic and compatible industrial effluents are treated together;

(v) Promotion of primary, secondary and, where appropriate and feasible, tertiary treatment of municipal sewage discharged to rivers, estuaries and the sea;

(vi) Reduction and beneficial use of sewage or other solutions appropriate to specific sites such as

no-water and low-water solutions;

(vii) Establishment and improvement of local and national regulatory and monitoring programmes to control and assess effluent discharge, using minimum sewage effluent guidelines and water quality criteria and giving due consideration to the characteristics of receiving bodies and the volume and type of pollutants;

(viii) Identification of the availability and sustainability of productive uses of sewage sludge, such as land-spreading, composting, etc.;

(ix) Establishment of research programmes to identify, validate and develop waste-water treatment technologies;

(c) Provision of sufficient training and education for local administrations to plan, build and run adequate sewage treatment facilities;

(d) Formulation and implementation of awareness campaigns for the general public to gain general recognition for the need for the installation of appropriate and environmentally sound sewage facilities.

(b) Regional actions

98. Regional actions should include:

(a) Promotion and implementation of regional cooperation for the establishment and implementation of programmes and priority measures for sewage, particularly in case of transboundary effects;

(b) Development of regional programmes for sharing and exchanging technical information and advice regarding environmentally sound sewage treatment and facilities.

(c) International actions

99. International actions should include:

(a) Participation in a clearing-house on environmentally sound sewage technology and practices;

(b) Facilitation of transfer of environmentally sound sewage technology;

(c) Scientific, technical and financial cooperation with countries in need of assistance, in developing, installing, operating and monitoring appropriate and environmentally sound sewage facilities.

B. Persistent organic pollutants (POPs)

1. Basis for action

100. Persistent organic pollutants (POPs) are a set of organic compounds that: (i) possess toxic characteristics; (ii) are persistent; (iii) are liable to bioaccumulate; (iv) are prone to long-range transport and deposition; and (v) can result in adverse environmental and human health effects at locations near and far from their source. POPs are typically characterized as having low water solubility and high fat solubility. Most POPs are anthropogenic in origin. Anthropogenic emissions, both point and diffuse, are associated with industrial processes, product use and applications, waste disposal, leaks and spills, and combustion of fuels and waste materials. Once dispersed, clean-up is rarely possible. Because many POPs are relatively volatile, their remobilization and long-distance redistribution through atmospheric pathways often complicates the identification of specific sources.

101. POPs have long environmental half-lives. Accordingly, successive releases over time result in continued accumulation and the ubiquitous presence of POPs in the global environment.

102. The primary transport routes into the marine and coastal environment include atmospheric deposition and surface run-off. Regional and global transport is predominately mediated by atmospheric circulation, but also occurs through sediment transport and oceanic circulation. Movement may also occur through a successive migra-

tion of short-range movements that result from a sequence of volatilization, deposition, and revolatilization. Due to these transport patterns and chemical characteristics, there is a growing body of evidence demonstrating the systematic migration of these substances to cooler latitudes.

2. Objective/proposed target

103. The objective/proposed target is:

(a) To reduce and/or eliminate emissions and discharges of POPs that threaten to accumulate to dangerous levels in the marine and coastal environment;

(b) To give immediate attention to finding and introducing preferable substitutes for chemicals that pose unreasonable and otherwise unmanageable risks to human health and the environment;

(c) To use cleaner production processes, including best available techniques, to reduce and/or eliminate hazardous by-products associated with production, incineration and combustion (e.g. dioxins, furans, hexaclorobenzene, poycyclic aromatic hydrocarbons (PAHs));

(d) To promote best environmental practice for pest control in agriculture and aquaculture.

3. Activities

(a) National actions, policies and measures

104. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories of point-source releases of POPs, identification and assessment of diffuse sources and sinks from which POPs may remobilize, and assessment of inputs from these sources as a basis for pollution control and prevention measures;

(b) Development of comprehensive national programmes of action for the reduction and/or elimination of emissions and discharges, and where applicable, remobilization from all significant sources of POPs, including targets and timetables and sector-specific measures for industry and agriculture:

(i) Adoption of appropriate policy instruments - which could include regulation, economic instruments and voluntary agreements - on POPs applying the precautionary principle and the "polluter pays" principle. Priority should be given to phasing out or banning of chemicals that pose unreasonable and otherwise unmanageable risks to human health and the environment and whose use can not be adequately controlled. This can be achieved through substitution by environmentally sound substances, use of best available techniques (BAT), application of best environmental practice (BEP) and implementation of integrated pollution prevention and control (IPPC);

(ii) Development of appropriate regulatory measures and establishment of facilities for environmentally sound collection and disposal of wastes containing POPs;

(iii) Establishment of an environmental monitoring programme for POPs including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;

(iv) Development of programmes to promote the informed use of substances which can result in discharges and emissions of POPs from diffuse sources, including the promotion of good agricultural practice to limit the use of pesticides to the application rates essential for crop protection, and restraint in the non-agricultural use of pesticides, especially on roads and railways;

(v) Establishment of information services for industry and agriculture on least environmentally hazardous handling and use of POPs, and on substitutes, technology and ways and means to prevent, reduce and eliminate pollution by POPs, including best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC);

(vi) Ratification and implementation of relevant international and regional conventions and agreements;

(vii) Ensuring the effective implementation of relevant bilateral, regional and international decisions and recommendations, *inter alia,* by:

a. Assessing regularly whether the national goals and measures to reduce and eliminate pollution by POPs are being accomplished;

b. Compliance monitoring, assessing and reporting the effects of these measures; and

c. Establishing or strengthening, as appropriate, institutions to deal effectively with the problems of POPs.

(b) Regional actions

105. Regional actions should include:

(a) Encouraging existing regional agreements and programmes of action on the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to set up and implement programmes and priority measures to prevent, reduce and/or eliminate emissions and discharges of POPs and materials containing POPs from all sources. To this end, they should, *inter alia*:

(i) Adopt targets and timetables for reduction and/or elimination of POPs releases through their substitution, and on best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC);

(ii) Adopt decisions and recommendations on the development of harmonized assessment criteria and monitoring programmes based on regionally or internationally agreed quality control and quality assurance procedures;

(iii) Provide member States with technical information and advice regarding handling, use and disposal of POPs and their substitutes and ways and means to minimize and eliminate their release to the environment;

(iv) Ensure transparency of the implementation of decisions and recommendations by adopting regular reporting on implementation and monitoring of measures regarding POPs; and

(v) Assess compliance with, and the effects of, the agreed measures;

(b) Encouraging States that are not already parties to regional agreements and action plans on the prevention and elimination of pollution of the marine and coastal environment from land-based activities to join such cooperation and to cooperate on a bilateral and/or a multilateral basis in the regulation of POPs;

(c) Encouraging the strengthening of or, as appropriate, establishing regional institutions to deal effectively with the problems of POPs.

(c) International actions

106. International actions should include:

(a) Urging international, regional and subregional funding sources and mechanisms and donor countries, to ensure that the objectives, principles and measures laid down in this chapter be taken into account when supporting projects that directly or indirectly relate to emissions, discharges and, where appropriate, the manufacture and use of POPs, as well as the clean-up and restoration of areas polluted with POPs;

(b) Encouraging international, regional and subregional funding sources and mechanisms to ensure that available financial resources are made available for supporting measures to reduce or eliminate releases of POPs to the environment;

(c) Inviting appropriate international agencies and bodies to strengthen necessary information exchange, transfer of environmentally sound technology and capacity-building for the implementation of the objectives, principles and measures laid down in this chapter for the reduction and/or elimination of POPs releases to the environment;

(d) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for POPs to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those co-sponsored by IOC, UNEP and IAEA under the GIPME programme, and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(e) Cooperation with countries in need of assistance, through financial, technical and scientific support, in order to reduce and/or eliminate emissions and discharges of POPs that threaten to accumulate to dangerous levels in the marine and coastal environment;

(f) Priority attention should be given to finding and introducing preferable substitutes for POPs that pose unreasonable and otherwise unmanageable risks to human health and the environment.

C. Radioactive substances

1. Basis for action

107. Radioactive substances (i.e., materials containing radionuclides) have entered and/or are entering the marine and coastal environment, directly or indirectly, as a result of a variety of human activities and practices. These activities include production of energy, reprocessing of spent fuel, military operations, nuclear testing, medical applications and other operations associated with the management and disposal of radioactive wastes and the processing of natural materials by industrial processes. Other activities, such as the transport of radioactive material, pose risks of such releases.

108. Radioactive materials can present hazards to human health and to the environment. Suspected radioactive contamination of foodstuffs can also have negative effects on marketing of such foodstuffs.

2. Objective/proposed target

109. The objective/proposed target is to reduce and/or eliminate emissions and discharges of radioactive substances in order to prevent, reduce and eliminate pollution of the marine and coastal environment by human-enhanced levels of radioactive substances.

3. Activities

(a) National actions, policies and measures

110. Actions, policies and measures of States within their national capacities should include:

(a) Promotion of policies and practical measures including setting targets and timetables to minimize and limit the generation of radioactive wastes and provide for their safe processing, storage, conditioning, transportation and disposal;

(b) Ensuring the safe storage, transportation and disposal of radioactive wastes, as well as spent radiation sources and spent fuel from nuclear reactors destined for final disposal, in accordance with international regulations or guidelines;

(c) Ensuring proper planning, including environmental impact assessment, of safe and environmentally sound management of radioactive waste, including emergency procedures, storage, transportation and disposal, prior to and after activities that generate such waste;

(d) Adoption of measures, including best available techniques and best environmental practice, for the reduction and/or elimination of inputs of radioactive substances to the marine and coastal environment for

the purpose of preventing and eliminating pollution of the marine and coastal environment;

(e) Ratification and/or implementation of relevant international and regional conventions, protocols and resolutions.

111. States should:

(a) Not promote or allow the storage or disposal of high-level, intermediate-level and low-level radioactive wastes near the marine and coastal environment unless they determine that scientific evidence, consistent with the applicable internationally agreed principles and guidelines, shows that such storage or disposal poses no unacceptable risk to people and the marine and coastal environment or does not interfere with other legitimate uses of the sea, making, in the process of consideration, appropriate use of the concept of the precautionary approach;

(b) Respect, in accordance with international law, the decisions, as far as applicable to them, under other relevant regional and other international environmental conventions dealing with other aspects of safe and environmentally sound management of radioactive wastes;

(c) Conclude and sign the Comprehensive Test Ban Treaty by no later than 1996; *

(d) Make available information on the characteristics of terrestrial dump sites in coastal areas through, and consistent with, agreed regional and international reporting procedures. The information should include the magnitude, types of material, characteristics of storage and status of the dump sites.

(b) Regional actions

112. Relevant regional organizations, in accordance with regional needs and capacities, should ensure:

(a) Monitoring of radioactivity in their regions and identification of any problem areas;

(b) The establishment of criteria for assessing and/or reporting on the use in their region of best available techniques to prevent and eliminate pollution by inputs of radioactive substances;

(c) The preparation of comprehensive environmental assessments of the effect on the marine and coastal environment of historical discharges and current discharges of radioactive substances.

(c) International actions

113. International actions should include:

(a) Support for efforts under the auspices of IAEA to develop and promulgate radioactive waste management safety standards, guidelines or codes of practice, including work being undertaken towards an international convention on the safety of radioactive waste management, in order to provide an internationally accepted basis for the safe and environmentally sound management and disposal of radioactive wastes. This work should take account of the application of best available techniques and best environmental practice for all nuclear applications not currently covered by internationally binding agreements making such provisions;

(b) Cooperation with countries in need of assistance, through financial, technical and scientific support, in ensuring environmentally sound management and storage of radioactive materials as well as supporting environmental restoration efforts;

(c) Maintenance of existing international quality assurance and standardization mechanisms supporting the reliable measurement and assessment of radionuclides in the environment. Such existing mechanisms include the Analytical Quality Control Services provided by the Marine Environmental Studies Laboratory of IAEA;

(d) Consideration by all Governments and international organizations that have expertise in the field of

* Note: This subparagraph has to be read in conjunction with the report of the Conference [illegible]

clean-up and disposal of radioactive contaminants to give appropriate assistance as may be requested for remedial purposes in adversely affected areas.

D. Heavy metals

1. Basis for action

114. Heavy metals are natural constituents of the Earth's crust. Human activities have drastically altered the biochemical and geochemical cycles and balance of some heavy metals. Heavy metals are stable and persistent environmental contaminants since they cannot be degraded or destroyed. Therefore, they tend to accumulate in the soils and sediments. Excessive levels of metals in the marine environment can affect marine biota and pose risk to human consumers of seafood.

115. Metals and their compounds, both inorganic and organic, are released to the environment as a result of a variety of human activities. A wide range of metals and metallic compounds found in the marine environment pose risks to human health through the consumption of seafood where contaminant content and exposure are significant. Many metals are essential to life and only become toxic when exposures to biota become excessive (i.e., exceed some threshold for the introduction of adverse effects). While certain non-essential metals do not have explicit exposure thresholds for the introduction of effects, the nature of biological responses to metal exposure are a direct consequence of exposure and are defined through dose-effect relationships. This differs from the dose-response relationship associated with many synthetic organic contaminants and radionuclides where risk of adverse effects is assumed to be proportional to exposure. Accordingly, it is desirable to minimize such exposures. In contrast, the predominant challenge in the case of heavy metals is one of limiting exposure to levels that do not cause adverse effects.

116. The main anthropogenic sources of heavy metals are various industrial point sources, including present and former mining activities, foundries and smelters, and diffuse sources such as piping, constituents of products, combustion by-products, traffic, etc. Relatively volatile heavy metals and those that become attached to air-borne particles can be widely dispersed on very large scales. Heavy metals conveyed in aqueous and sedimentary transport (e.g., river run-off) enter the normal coastal biogeochemical cycle and are largely retained within near-shore and shelf regions.

2. Objective/proposed target

117. The objective/proposed target is to reduce and/or eliminate anthropogenic emissions and discharges in order to prevent, reduce and eliminate pollution caused by heavy metals.

3. Activities

(a) National actions, policies and measures

118. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories on significant sources, including natural sources, of priority heavy metals and their compounds and subsequent assessment of inputs and establishment of priority (geographic or subject) areas for action. They should also, where appropriate, take into account input from long-range transport of these pollutants;

(b) Development of comprehensive national programmes of action for reduction and/or elimination of emissions and discharges of heavy metals from anthropogenic sources could include:

(i) Targets, timetables and sector-specific measures, respecting the precautionary principle, best available techniques (BAT), best environmental practice (BEP) and integrated pollution prevention and control (IPPC);

(ii) Fiscal and economic incentives and measures, including voluntary agreements to encourage reduction and/or elimination of emissions and discharges of heavy metals;

(iii) Appropriate regulatory measures and establishment of facilities for environmentally sound collection and disposal of hazardous wastes containing heavy metals taking into account the technical document on landfill agreed upon within the framework of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(iv) Promotion of technical solutions, such as the use of unleaded petrol and filter systems for smelters;

(v) Means to ensure effective implementation of the programme of action;

(vi) The establishment of cleaner production programmes in cooperation with industry;

(c) Establishment of an environmental monitoring programme for heavy metals including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;

(d) Formulation and implementation of awareness and education campaigns for the public and industry, to gain general recognition of the need to reduce and eliminate pollution by heavy metals and in particular to further reduce diffuse inputs through waste systems, including sewerage systems;

(e) Establishment of information services for industry on technology and ways and means to prevent, reduce and eliminate pollution by heavy metals, including best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC);

(f) Promotion of private initiatives for the establishment and implementation of systems of internal environmental management within industry.

(b) Regional actions

119. Regional actions should include:

(a) Encouraging existing regional agreements and programmes of action dealing with the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to develop or continue to develop and implement programmes and measures to reduce and/or eliminate emissions and discharges of heavy metals and material containing these substances from the appropriate industrial sectors, products and groups of products;

(b) Development and implementation of monitoring programmes and regular assessments of levels, inputs and effects based on regionally agreed quality control and quality assurance procedures and harmonized assessment criteria;

(c) Encouraging States, including land-locked States, that are not already parties to regional seas arrangements regarding the protection of the marine and coastal environment from land-based activities to join such cooperation and to cooperate on bilateral and multilateral basis in the control of pollution from heavy metals;

(d) Promotion of cooperation in the development of cleaner production programmes.

(c) International actions

120. International actions should include:

(a) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for heavy metals and their compounds to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those cosponsored by IOC, UNEP and IAEA under the GIPME programme and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(b) Participation in a clearing-house for information on best available techniques (BAT), best environmental practice (BEP) and integrated pollution prevention and control (IPPC) to reduce and or eliminate

emissions and discharges of heavy metals;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support to maximize the best practicable control and reduction of anthropogenic emissions and discharges of heavy metals.

E. Oils (Hydrocarbons)

1. Basis for action

121. Many oils are liquid and gaseous hydrocarbons of geological origin. While some oils are naturally occurring, a significant proportion of those in the marine and coastal environment have been derived from anthropogenic sources. Most oils from land-based sources are refined petroleum products or their derivatives. Some oils are volatile or easily degraded and disappear rapidly from aquatic systems, but some may persist in the water column or in sediments. Oils may be toxic to aquatic life when ingested or absorbed through skin or gills, interfere with respiratory systems, foul fur and feathers, smother aquatic communities, habitats and bathing beaches, taint seafood and contaminate water supplies.

122. Land-based sources of oils include operational and accidental discharges and emissions from oil exploration, exploitation, refining and storage facilities; urban, industrial and agricultural run-off; transport; and the inappropriate disposal of used lubricating oils. The main pathways to the marine environment include atmospheric dispersion of volatile fractions; storm sewers and sewage treatment works; and rivers. Impacts from land-derived oils will be regional for the more volatile fractions, and local (occasionally regional) for more refractory components.

2. Objective/proposed target

123. The objective is to prevent, reduce and/or eliminate anthropogenic emissions and discharges in order to prevent, reduce and eliminate pollution caused by oil.

3. Activities

(a) National actions, policies and measures

124. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories of significant sources of oils, and subsequent assessment and establishment of areas (geographic or substance) for action. They should also, where appropriate, take into account inputs from long-range transport of these pollutants;

(b) Development of comprehensive national programmes of action for the reduction and/or elimination of priority emissions and discharges from anthropogenic sources could include:

(i) Targets, timetables, and sector-specific measures respecting the precautionary principle and applying best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC);

(ii) Fiscal and economic incentives and measures, including voluntary agreements, to encourage reductions in emissions and discharges of oils, to encourage the recycling of used lubricating oils, and to encourage fuel-use efficiencies;

(iii) The provision of reception and recycling facilities for oily wastes;

(iv) Development of plans and measures to prevent accidental releases of oils, particularly from coastal refineries, storage facilities and waste reception facilities and of capacities to respond to such accidents;

(v) Establishment of cleaner production programmes in cooperation with industry;

(vi) Means to ensure the effective implementation of the programme of action;

(c) Establishment of environmental monitoring programmes for oil, including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;

(d) Formulation and implementation of awareness and education campaigns for the public and industry to gain general recognition of the need and ways to reduce emissions and discharges of oil, and, in particular, to further reduce diffuse inputs through waste systems, including sewerage systems;

(e) Establishment of information services for industry on technology and ways and means to prevent, reduce and eliminate pollution by oil, including best environmental practice (BEP), best available techniques (BAT), and integrated pollution prevention and control (IPPC);

(f) Promotion of private initiatives for the establishment and implementation of systems of internal environmental management within industry.

(b) Regional actions

125. Regional actions should include:

(a) Encouraging existing regional agreements and programmes of action on the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to develop or continue to develop and implement programmes and measures to reduce and/or eliminate emissions and discharges of oils from the appropriate industrial sectors, products and groups of products;

(b) Adoption of programmes and measures on the development of harmonized assessment criteria and monitoring programmes based on regionally or internationally agreed quality control and quality assurance procedures;

(c) Encouraging States, including land-locked States, that are not already parties to regional seas arrangements regarding the protection of the marine and coastal environment from land-based activities, to join such cooperation and to cooperate on bilateral and multilateral basis in the control of pollution from oil;

(d) Promoting cooperation on the development of cleaner- production programmes, best available techniques, and best environmental practice;

(e) Development of regional plans and measures to prevent accidental releases of oils, and development of regional capacities to respond to such accidents;

(f) Where appropriate, the provision of regional reception and recycling facilities for oily wastes.

(c) International actions

126. International actions should include:

(a) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for oil, oil products and their constituents to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those cosponsored by IOC, UNEP, and IAEA under the GIPME programme, and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(b) Participation in a clearing-house for information on best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC) to reduce and/or eliminate emissions and discharges of oil;

(c) Cooperation with countries in need of assistance through financial, technical, and scientific support, to maximize the best practicable control and reduction in emissions and discharges of oil.

F. Nutrients

1. Basis for action

127. Eutrophication can result from augmentation of nutrient inputs to coastal and marine areas as a consequence of human activities. In general, such eutrophication is usually confined to the vicinity of coastal discharges but, because of both the multiplicity of such discharges and regional atmospheric transport of nutrients, such affected coastal areas can be extensive.

128. The effects of the enhanced mobilization of nutrients are enhanced productivity but these can also result in changes in species diversity, excessive algal growth, dissolved oxygen reductions and associated fish kills and, it is suspected, the increased prevalence or frequency of toxic algal blooms.

2. Objective/proposed target

129. The objective/proposed target is:

(a) To identify, in broad terms, marine areas where nutrient inputs are causing or are likely to cause pollution, directly or indirectly;

(b) To reduce nutrient inputs into the areas identified;

(c) To reduce the number of marine areas where eutrophication is evident;

(d) To protect and, where appropriate, to restore areas of natural denitrification.

3. Activities

(a) National actions, policies and measures

130. Actions, policies and measures of States within their capacities should include:

(a) Identification of areas where nutrient inputs are likely to cause pollution, directly or indirectly;

(b) Identification of point sources and diffuse sources of nutrient inputs into these areas;

(c) Identification of areas where changes in anthropogenic nutrient inputs are causing or are likely to cause pollution, either directly or indirectly, and prioritization of these areas for action;

(d) Adoption of appropriate cost-effective policy instruments, including regulatory measures, economic instruments and voluntary agreements, to control anthropogenic sources of nutrients affecting these areas, including:

(i) Activities related to sewage treatment and management mentioned in paragraph 97 (b) above;

(ii) Minimization of the release of nutrients by the use of best environmental practice (BEP) in agriculture and aquaculture operations;

(iii) Minimization of the release of nutrients by the use of best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC) in industrial operations;

(iv) Formulation and implementation of awareness and information campaigns for the adoption of appropriate agricultural techniques, including balanced fertilization and ecological agriculture, to minimize nutrient losses from agricultural activities;

(v) Introduction of measures to reduce inputs of nutrients via atmospheric deposition from transportation, industrial plants and agriculture;

(e) Strengthening the capacities of local authorities to take account of likely impacts of inputs of nutrients from agriculture and urban development in carrying out their functions of planning and controlling land-use and development;

(f) Establishment or improvement, as appropriate, of monitoring of all aspects of eutrophication;

(g) Promotion of scientific research on the suspected linkages between eutrophication and toxic algal blooms;

(h) Development and adoption of programmes to protect and, where appropriate, restore habitats acting as natural sinks for nutrients such as wetlands.

(b) Regional actions

131. Regional actions should include:

(a) Establishment of common criteria for the identification of existing and potential problem areas including possible solutions with regard to eutrophication;

(b) Identification of marine areas in the region where nutrient inputs are causing or are likely to cause pollution, directly or indirectly;

(c) Identification of areas for priority actions;

(d) Establishment of uniform approaches to the calculation of anthropogenic nutrient inputs to the aquatic environment from agriculture and other sources, as appropriate, with the aim of improving the estimation of these inputs;

(e) Development and implementation of programmes and measures for reducing nutrient inputs from anthropogenic activities to areas where these inputs are causing or are likely to cause pollution directly or indirectly and, where the agricultural sector is a predominant source, to pay particular attention to that sector and the implementation of measures identified for it;

(f) Establishment of mechanisms for assessing the effectiveness of the measures taken to reduce nutrient inputs to the aquatic environment from both point and diffuse sources;

(g) Development of strategies for reducing eutrophication in areas already affected and those susceptible to being affected.

(c) International actions

132. International actions should include:

(a) Participation in a clearing-house for providing information about best environmental practice and access to best available techniques to reduce and/or eliminate causes of anthropogenic eutrophication;

(b) Strengthening of international programmes for enhancing capacity for:

(i) Identification of areas where inputs of nutrients are causing, or are likely to cause pollution, directly or indirectly;

(ii) Nutrient control and removal techniques;

(iii) Application of best environmental practice in aquaculture and agriculture;

(c) Cooperation with countries in need of assistance, through financial, technological and scientific support, in developing and implementing practices which minimize releases of nutrients to the environment, including environmentally sound land-use techniques, planning and practices;

(d) Provision of forums for establishing criteria for determining the circumstances in which nutrients are

likely to cause pollution, directly or indirectly;

(e) Maintaining existing international quality assurance and quality control procedures relevant to eutrophication.

G. Sediment mobilization

1. Basis for action

133. Natural sedimentation and siltation are important in the development and maintenance of numerous coastal habitats. Habitats requiring sediment input include coastal wetlands, lagoons, estuaries and mangroves. Reduction in natural rates of sedimentation can compromise the integrity of these habitats, as can excessive sediment loads, which may bury benthic communities and threaten sensitive habitats such as coral reefs, mangroves, seagrass beds, and rocky substrates.

134. Contaminated sediments, whether they are fresh inputs or dredged, may also lead to pollution, the latter through resuspension or improper disposal.

135. Anthropogenic modifications to sediment mobilization and sedimentation are made by, *inter alia,* construction activities, forestry operations, agricultural practices, mining practices, hydrological modifications, dredging activities, and coastal erosion. Effects are generally local in nature, but transboundary implications may occur in some areas where major river systems form a common border and where littoral currents carry inputs across international boundaries.

2. Objective/proposed target

136. The objective/proposed target is to reduce, control and prevent the degradation of the marine environment due to changes in coastal erosion and siltation caused by human activities.

3. Activities

(a) National actions. policies and measures

137. Actions, policies and measures of States within their capacities should include:

(a) Development and implementation of environmentally sound land-use practices to control sediment discharges to watercourses and estuaries which cause degradation of the marine environment;

(b) Establishment of measures to control, reduce and prevent coastal erosion and siltation due to anthropogenic factors such as land-use, including coastal mining and construction practices, while ensuring that natural erosion supplying sedimentary habitats is not impeded;

(c) Introduction of watershed management and land-use practices to prevent, control and reduce degradation of the marine environment due to anthropogenic changes in sediment loads and contamination of sediments;

(d) Application of practices developed under existing international regulations to prevent marine pollution/degradation from dumping of dredged material and associated dredging operations;

(e) Establishment or improvement of monitoring of sediment transport to the marine environment and associated sedimentation patterns and rates;

(f) Application of environmentally sound management and storage practices for polluted dredged material;

(g) Adoption of measures to minimize changes to natural erosion, sediment transport and sedimentation resulting from the construction of barriers and barrages.

(b) Regional actions

138. Regional actions should include:

(a) Promotion of regional cooperation, where appropriate, for the establishment of programmes and priority measures to control anthropogenic modifications to sedimentation/siltation;

(b) Development or enhancement, as appropriate, of regional programmes for the exchange of information on technology and techniques and experience regarding sedimentation/siltation.

(c) International actions

139. International actions should include:

(a) Development of methodologies to reduce, control and prevent adverse effects of sedimentation/siltation, including the formulation of mechanisms for determining changes in sediment mobilization and transport, incorporating relevant quality assurance and standardization procedures;

(b) Participation in a clearing-house for providing information on technologies, measures and experiences regarding sedimentation/siltation;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support, in the development and implementation of environmentally sound land-use techniques, planning and practices to reduce, control and prevent the negative effects of changes in erosion and siltation rates.

H. Litter

1. Basis for action

140. Litter threatens marine life through entanglement, suffocation and ingestion and is widely recognized to degrade the visual amenities of marine and coastal areas with negative effects on tourism and general aesthetics. Litter is any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment, sometimes called marine debris. Litter in the marine environment can also destroy coastal habitats and in some situations interfere with biological production in coastal areas.

141. Litter entering the marine and coastal environment has multiple sources. Sources include poorly managed or illegal waste dumps adjacent to rivers and coastal areas, windblown litter from coastal communities, resin pellets used as industrial feedstocks, and litter that is channelled to the marine and coastal environment through municipal stormwater systems and rivers. Marine litter is also caused by dumping of garbage into the marine and coastal environment by municipal authorities as well as recreational and commercial vessels.

142. While international action has been taken to prevent the discharge of plastics and other persistent wastes from vessels, it has been estimated that approximately 80 per cent of persistent wastes originate from land. Floatable litter is known to travel considerable distances with regional and sometimes broader implications. Resin pellets used as industrial feedstock circulate and deposit on oceanic scales.

143. Uncontrolled burning of litter containing plastics may generate significant quantities of POPs, metals and hydrocarbons which can reach the marine and coastal environment.

2. Objective/proposed target

144. The objective/proposed target is:

(a) To establish controlled and environmentally sound facilities for receiving, collecting, handling and disposing of litter from coastal area communities;

(b) To reduce significantly the amount of litter reaching the marine and coastal environment by the prevention or reduction of the generation of solid waste and improvements in its management, including col-

lection and recycling of litter.a. In this context, paragraph 21.39 of Agenda 21 states:

> "The overall objective of this programme is to provide health- protecting environmentally safe waste collection and disposal services to all people. Governments, according to their capacities and available resources and with the cooperation of the United Nations and other relevant organizations, as appropriate, should:
>
> "(a) By the year 2000, have the necessary technical, financial and human resource capacity to provide waste collection services commensurate with needs;
>
> "(b) By the year 2025, provide all urban populations with adequate waste services;
>
> "(c) By the year 2025, ensure that full urban waste service coverage is maintained and sanitation coverage achieved in all rural areas."

3. Activities

(a) National actions, policies and measures

146. Actions, policies and measures of States within their capacities should include:

(a) Introduction of appropriate measures -which could include regulatory measures and/or economic instruments and voluntary agreements -to encourage reduction in the generation of solid wastes;

(b) Installation of garbage containers for citizens in public areas for the purposes of appropriate collection and/or recycling;

(c) Establishment and ensuring the proper operation of solid-waste-management facilities on shore for wastes from all sources, including shipping and harbour wastes;

(d) Formulation and implementation of awareness and education campaigns for the general public, industry, and municipal authorities, as well as recreational and commercial vessels, on the need to reduce waste generation and the need for environmentally sound disposal and reuse;

(e) Increasing local planning and management capacity to avoid location of waste-dump sites near coastlines or waterways or to avoid litter escape to the marine and coastal environment;

(f) Formulation and implementation of improved management programmes in small rural communities to prevent litter escape into rivers and the marine and coastal environment;

(g) Establishment of campaigns and/or permanent services for collecting solid wastes that pollute coastal and marine areas.

(b) Regional actions

147. Regional actions should include the promotion of regional cooperation for the exchange of information on practices and experiences regarding waste management, recycling and reuse, and cleaner production, as well as regional arrangements for solid-waste management.

(c) International actions

148. International actions should include:

(a) Participation in a clearing-house on waste management, recycling and reuse, and waste-minimization technologies;

(b) Cooperation with countries in need of assistance, through financial, scientific and technological support, in developing and establishing environmentally sound waste-disposal methods and alternatives to disposal.

1. Physical alterations and destruction of habitats

1. Basis for action

149. The increase of populations and economic activities in coastal areas is leading to an expansion of construction and alterations to coastal areas and waters. Excavation, oil and gas exploration and exploitation, mining, such as sand and aggregate extraction, the building of ports and marinas and building of coastal defences and other activities linked to urban expansion are giving rise to alterations of coral reefs, shorelands, beachfronts and the seafloor. Important habitats are being destroyed. Wetlands are being transformed into agricultural lands and through coastal development. Tourism, unrestricted and uncontrolled aquaculture, clearance of mangroves and destructive fishing practices, such as the use of dynamite and chemicals, are also causing the physical destruction of important habitats. The introduction of alien species can also have serious effects upon marine ecosystem integrity. Spawning grounds, nurseries and feeding grounds of major living marine resources of crucial importance to world food security are being destroyed. This destruction of habitat exacerbates overharvesting of these living marine resources leading to a growing risk that they are being depleted. This is an increasing threat to the food security of coastal populations, in particular in developing countries.

150. The damming of river systems can result in upstream sedimentation, possible changes in estuarine conditions and interference with fish migration. These adversely affect biological diversity and biological productivity. The practice of saltwinning from saltpan construction in coastal areas can also affect salt concentration levels and biological diversity.

2. Objective/proposed target

151. The objective/proposed target is to:

(a) Safeguard the ecosystem function, maintain the integrity and biological diversity of habitats which are of major socio-economic and ecological interest through integrated management of coastal areas;

(b) Where practicable, restore marine and coastal habitats that have been adversely affected by anthropogenic activities.

3. Activities

(a) National actions, policies and measures

152. Actions, policies and measures of States within their capacities should include the formulation, adoption and implementation of programmes for integrated coastal area management, in accordance with Agenda 21, chapter 17, programme area A. These programmes should include, where appropriate:

(a) The identification of habitats of major socio-economic and ecological significance such as spawning grounds, breeding grounds and nurseries of marine living resources which guarantee food security of large coastal populations;

(b) Conducting assessments that involve the use of community-based participatory approaches, to identify land-based activities that threaten physical degradation or destruction of key habitats;

(c) Encouraging economic and social sectors whose activities may lead to physical degradation or destruction of such habitats to adjust those activities so as to reduce or avoid such effects;

(d) The establishment of marine protected areas in coastal areas to maintain the integrity and biological diversity of their habitats;

(e) Restoration of coastal habitats that have suffered decline or loss as a result of human activities.

(b) Regional actions

153. Regional actions should include formulation and adoption of regional-scale approaches to safeguarding crit-

ical habitats such as:

(a) Regional systems of marine and coastal protected areas;

(b) Regional programmes of action and protocols on important species and habitats;

(c) Regional approaches to management of important living marine resources, in particular where the spatial scales of their life-stages transcend national boundaries;

(d) Cooperation between regional marine environment programmes and regional fisheries organizations.

(c) International actions

154. International actions include:

(a) The coordination and formulation of guidelines for the preservation of habitat and normal ecosystem functions in coastal areas, particularly in the context of integrated coastal area management. Such activities should take advantage of and be consistent with existing international mechanisms and agreements;

(b) Participation in a clearing-house for providing information on technologies and experiences regarding coastal-zone-management methodology;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support in the development and implementation of environmentally sound land-use techniques, planning and practices to prevent and control the negative effects of physical alterations.

Annex

ILLUSTRATIVE LIST OF FUNDING SOURCES AND MECHANISMS

The possible funding sources and mechanisms that may be appropriate and which will need to be considered include:

A. Financing sources internal to the State concerned

1. User charges: User charges ensure that those who benefit immediately and directly from the provision of a service contribute towards the costs of that service;

2. Charging the polluter: Those who impose burdens on the aquatic environment (for example, by discharging waste water) can be required to contribute to the external costs of their actions;

3. Local taxes: A municipality, or other organized community, that benefits from improvements in water management, can contribute to the costs of those improvements from local taxes, either by a specific tax for that purpose or by a contribution from general tax revenues;

4. National taxes: Where the costs of some local improvement in water management would bear unreasonably on the local community concerned, or where the improvement benefits the public at large, the national budget can contribute part or all of the cost;

5. Private-sector borrowing: Where a project requires substantial initial investments, the public authority responsible can borrow the capital cost from national private-sector financial institutions, with the resulting loan-charges being serviced from any of the foregoing sources;

6. National revolving funds: A fund can be set up, financed from either any of the foregoing sources, from external financing sources or mechanisms or from a mix of any of these, from which advances can be made to finance project costs. Subsequent repayments from the projects are then used to refill the fund to permit new advances;

7. Private-sector participation: Private-sector firms can take responsibility for all, or parts, of the operation of a project instead of simply providing funds; this may involve:

(a) Improving and/or operating the assets necessary for a service ("the service assets"), which remain in public ownership;

(b) Providing and operating the service assets on their own account for a specific period, after which the assets revert to public ownership;

(c) Taking over ownership of the service assets and then improving and operating them on their own account, either for a specific period or permanently.

B. External financing sources and mechanisms

8. International private-sector institutions: Loans may be taken out from international private-sector financial institutions in the same way as from equivalent national institutions; in the same way, private-sector participation can equally be organized through international companies;

9. Export credit agencies: These are a source of shorter-term project financing, especially for specialized equipment;

10. Grant and concessionary assistance: Part of the costs of creating service assets or the necessary management infrastructure may be met by grants or loans, including loans of concessionary terms, from donor States or multilateral aid agencies, associations and programmes. Separate arrangements often exist to finance the acquisition of the "know-how" needed to plan and organize projects. In particular, GEF supports, by means of limited grant assistance up to the amount of the agreed incremental cost of global environmental benefits, actions consistent with its operational strategy in four focal areas: climate chang[illegible]. Biolog-

ical diversity, international waters and ozone-layer depletion;

11. Multilateral loans: The World Bank and regional development banks can provide loan finance for larger projects and technical assistance directly, and for smaller projects through financial intermediaries in the borrowing country, normally at rates lower than those obtainable on the commercial market;

12. Multilateral equity funds: Certain projects are more appropriately supported by means of equity capital than by interest-bearing loans. Where equity participation from the private-sector market is not available or not appropriate, certain public-sector financing agencies can provide support of this kind;

13. Debt-for-equity swaps and eco-conversion programmes: Creditors agree to convert the debts owed to them into local funds to be applied for environmentally beneficial expenditure;

14. Foundation grants: Many privately or publicly endowed foundations may use their resources to support innovative approaches to environmental management or the development of human resources;

15. Twinning arrangements: Arrangements between authorities, either central or local, in one country and their counterparts in another, or analogous arrangements between regional seas organizations, have proved to be an important mechanism for the effective and sustained transfer of experience between parties with similar interests and concerns.

Jakarta Mandate (Decision II/10) on Marine and Coastal Biodiversity, Pursuant to the Convention on Biological Diversity of 5 June 1992, Jakarta, 1995

Done at Jakarta 15 November 1995

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Decision II/10: CONSERVATION AND SUSTAINABLE USE OF MARINE AND COASTAL BIOLOGICAL DIVERSITY

The Conference of the Parties,

Recalling that the Conference of the Parties decided to address, at its second meeting, advice from the Subsidiary Body on Scientific, Technical and Technological Advice on the scientific, technical and technological aspects of the conservation and sustainable use of marine and coastal biological diversity,

Being deeply concerned at the serious threats to marine and coastal biological diversity caused by factors including physical alteration, destruction and degradation of habitats, pollution, invasion of alien species, and over-exploitation of living marine and coastal resources,

1. *Takes note* of recommendation I/8 on scientific, technical and technological aspects of the conservation and sustainable use of marine and coastal biological diversity, adopted by the first meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, held in Paris at the headquarters of the United Nations Educational, Scientific and Cultural Organization, from 4 to 8 September 1995, and:

(a) *Affirms* that it represents a solid basis for future elaboration of the issues presented;

(b) *Supports* the recommendations in paragraphs 10-19 of recommendation I/8, subject to Annex I of the present decision and its further elaboration by the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties;

(c) *Reaffirms* the importance of future work by the Subsidiary Body on Scientific, Technical and Technological Advice to provide a balanced perspective on the remaining issues presented by the recommendations in I/8 and Annex I of the present decision relevant to the conservation and sustainable use of marine and coastal biodiversity;

2. *Encourages the use of* integrated marine and coastal area management as the most suitable framework for addressing human impacts on marine and coastal biological diversity and for promoting conservation and sustainable use of this biodiversity;

3. *Encourages* Parties to establish and/or strengthen, where appropriate, institutional, administrative, and

legislative arrangements for the development of integrated management of marine and coastal ecosystems, plans and strategies for marine and coastal areas, and their integration within national development plans;

4. *Takes note* of the recently finalized Food and Agriculture Organization of the United Nations Code of Conduct for Responsible Fisheries, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and the Washington Declaration and Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, and supports their implementation, including that by Parties, in ways that are consistent with, and conform to, the objectives of the Convention on Biological Diversity;

5. *Welcomes* the International Coral Reef Initiative as a means to address threats to coral reefs and related ecosystems and encourages participation in International Coral Reef Initiative activities to implement its Framework for Action;

6. *Reaffirms* that under Article 25 the Subsidiary Body on Scientific, Technical and Technological Advice is the only scientific, technical and technological authority under the Convention to provide advice to the Conference of the Parties;

7. *Instructs* the Executive Secretary to provide, in accordance with Annex II the Subsidiary Body on Scientific, Technical and Technological Advice with scientific, technical, and technological advice and options for recommendations to the Conference of the Parties in further elaborating the recommendations contained in recommendation I/8, with the exception of paragraphs 3 and 4;

8. *Offers* the Executive Secretary the following guidance for conducting the work described in paragraph 6:

(a) Solicit input from all Parties and, as appropriate, from other countries and relevant bodies;

(b) Establish, on the basis of country input, a roster of experts with specialization appropriate to the work described in paragraph 6;

(c) The roster will draw upon expertise from scientific, technical, technological, social, management, economic, policy, legal, and indigenous and traditional knowledge;

(d) Convene, as appropriate, meetings of experts, drawn from the roster to support the Secretariat in advancing the work described in paragraph 6. Each meeting shall be for a duration of no longer than five days, and shall be comprised of no more than 15 experts with due regard to geographical representation and to the special conditions of least-developed countries and small island developing States;

9. *Welcomes* the offer from Indonesia to be host country for the first such meeting of Experts on Marine and Coastal Biological Diversity;

10. *Decides* to forward this decision and its annexes to the next session of the Commission on Sustainable Development for its information when considering its review of Agenda 21, chapter 17, on oceans;

11. *Decides* to forward this decision and annexes to the Global Environment Facility, other funding agencies and other relevant international bodies, to be taken into account in considering activities related to the conservation and sustainable use of marine and coastal biological diversity;

12. *Requests* the Executive Secretary, in consultation with the United Nations Office for Ocean Affairs and the Law of the Sea, to undertake a study of the relationship between the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea with regard to the conservation and sustainable use of genetic resources on the deep seabed, with a view to enabling the Subsidiary Body on Scientific, Technical and Technological Advice to address at future meetings, as appropriate, the scientific, technical, and technological issues relating to bio-prospecting of genetic resources on the deep seabed;

13. *Invites* international and regional bodies responsible for legal instruments, agreements and programmes which address activities relevant to the conservation and sustainable use of marine and coastal biodiversity, including the United Nations General Assembly, the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, the International Maritime Organization, the United Nations Office for

Ocean Affairs and the Law of the Sea, the United Nations Educational, Scientific and Cultural Organization including its Intergovernmental Oceanographic Commission, the World Conservation Union (IUCN), the Commission on Sustainable Development, the International Coral Reef Initiative, regional fisheries bodies, migratory species agreements, secretariats of regional agreements for the conservation of the marine environment and other relevant international and regional organizations and institutions, to review their programmes with a view to improving existing measures and developing new actions which promote conservation and sustainable use of marine biological diversity, taking into account the recommendations for action by the Parties to the Convention on Biological Diversity adopted by the Conference of the Parties at its second meeting, and provide information on their actions on a regular basis to the Conference of the Parties and, in a first instance, as soon as possible through the Executive Secretary. Furthermore, these various institutions are invited to cooperate with the Conference of the Parties through the Subsidiary Body on Scientific, Technical and Technological Advice in planning and implementation of programmes affecting marine and coastal biological diversity, so as to reduce any unnecessary duplication or gaps in coverage;

14. *Decides* to request the Subsidiary Body on Scientific, Technical and Technological Advice to carry out a summary review at its next meeting of the first report from the Executive Secretary and to submit in its report to the Conference of the Parties its recommendation on the work of the Executive Secretary.

Annex I to decision II/10

ADDITIONAL CONCLUSIONS ON RECOMMENDATION I/8 ADOPTED BY THE SUBSIDIARY BODY ON SCIENTIFIC, TECHNICAL AND TECHNOLOGICAL ADVICE AT ITS FIRST MEETING (UNEP/CBD/COP/2/5)

(i) Some delegations indicated their concern that paragraphs 10-19 were unbalanced in that they over-emphasized fishery issues, rather than some other issues such as pollution. Other delegations had an interest in highlighting the impacts of unsustainable fishing activities on marine and coastal biodiversity.

(ii) In relation to paragraph 10, crucial components of integrated marine and coastal area management are relevant sectoral activities, such as construction and mining in coastal areas, mariculture, mangrove management, tourism, recreation, fishing practices and land-based activities, including watershed management Parties should, where appropriate and practical, prevent physical alteration, destruction and degradation of vital habitats and pursue restoration of degraded habitats, including spawning areas, nurseries of stocks of living marine resources, bearing in mind the objectives of the Convention on Biological Diversity and the need to provide a balanced approach to the use and conservation of marine and coastal biological diversity.

(iii) Parties are encouraged to undertake and exchange information on demonstration projects as practical examples of integrated marine and coastal area management.

(iv) In relation to paragraph 11, critical habitats for living marine resources should be an important criterion for the selection of marine and coastal protected areas, within the framework of integrated marine and coastal area management, taking into consideration the objectives of the Convention on Biological Diversity. Conservation measures should emphasize the protection of ecosystem functioning, in addition to protecting specific stocks.

(v) In reference to paragraph 12, the present mono-species approach to modelling and assessment should be augmented by an ecosystem process-oriented approach, based on research of ecosystem processes and functions, with an emphasis on identifying ecologically critical processes that consider the spatial dimension of these processes. Models of ecosystem processes should be developed through trans-disciplinary scientific groups (ecologists, oceanographers, economists, and fisheries experts) and be applied in the development of sustainable land and coastal resource use practices.

(vi) Paragraph 13 refers to the draft Food and Agriculture Organization of the United Nations Code of Conduct for Responsible Fisheries. The Code was adopted by the 28th session of the Conference of the Food and Agriculture Organization of the United Nations, in October 1995. The Food and Agriculture Organization of the United Nations is now undertaking the development of technical guidelines for the implementation of the Code. The Conference of the Parties can offer the technical expertise of the Subsidiary Body on Scientific, Technical and Technological Advice in the elaboration and implementation of these guidelines, in line with the objectives and provisions of the Convention on Biological Diversity.

(vii) In relation to paragraph 14(a), the inclusion of subsidies was contentious. Some delegates stressed that the issue of subsidies was politically sensitive, with potential trade implications. It was noted that these issues address one of the underlying causes of biological diversity loss, *viz*, the result of over-fishing, and this consideration remained an important recommendation from the report of the Subsidiary Body on Scientific, Technical and Technological Advice. It was also noted that there were a variety of other subsidies which had impacts on the conservation and sustainable use of marine and coastal biological diversity. The Executive Secretary is entitled to evaluate these aspects using a meeting of experts. Some delegations argued that the phrase "subsidies for fisheries" appeared ambiguous. Government subsidies related to fishing activities have a great variety in their modalities. In addition, subsidies should not be evaluated alone. Evaluation of subsidies for fisheries should be conducted in relation to, or in conjunction with, considerations of fisheries management. It would be most appropriate to examine the various existing subsidies in the light of Article 11, which refers to economically and socially sound incentive measures.

(viii) Also, in relation to paragraph 14, cooperation between regional fisheries bodies and regional organizations for protection and conservation of the marine environment should be promoted.

(ix) In relation to paragraph 15, the Parties should enhance and improve the knowledge regarding the genetic structure of the local populations of marine species subjected to stock enhancement and sea-ranching

activities. Considering that the captive-bred populations are likely to interact genetically and ecologically with wild populations, this knowledge should be used in the management of breeding stocks according to sound genetic principles that take into account the use of local populations for stock selection, minimum breeding numbers and the renewal frequency of the breeding stock from the wild population.

(x) Mariculture (paragraph 15) is assumed to include culture-based fisheries and is defined here to be aquaculture in marine or brackish water. According to the Food and Agriculture Organization of the United Nations, "aquaculture is the farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants. Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies individual or corporate ownership of the stock being cultivated". Although the Food and Agriculture Organization of the United Nations requires "ownership of the stock being cultivated" in its definition, no such restriction is adopted here for the purpose of this document.

(xi) Some Parties thought paragraph 15(I)(e) would be better expressed as "because of the difficulties of complete containment, introduction of alien species, products of selective breeding, and living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of marine and coastal biodiversity should be responsibly conducted using the precautionary approach. Therefore, adherence to international codes of practice such as the Food and Agriculture Organization of the United Nations Code of Conduct for Responsible Fisheries, the International Commission for the Exploration of the Sea, and the Organisation Internationale Epizootique should be a minimum requirement. Assessments and an appropriate monitoring programme should be put in place if introduction goes ahead. Preference should be given to the use of local species. Furthermore, development of technology to ensure a more complete containment should be encouraged."

Annex II to decision II/10

DRAFT PROGRAMME FOR FURTHER WORK ON MARINE AND COASTAL BIOLOGICAL DIVERSITY

1. The Executive Secretary will use as the basis of work recommendation I/8 of the Subsidiary Body on Scientific, Technical and Technological Advice (contained in document UNEP/CBD/COP/2/5), this decision and further inputs, if any, from the Conference of the Parties.

2. The Executive Secretary should use the roster of experts on Marine and Coastal Biodiversity to address the following topics:

(a) Identify options for a pragmatic but comprehensive approach in addressing marine and coastal biological diversity on the basis of an ecosystems approach, including its components at the levels of species and genetic resources, distinguishing regions at relevant scales. Use the results from this activity in identifying the gaps in knowledge of the distribution and abundance of marine and coastal biodiversity;

(b) Identify the particular needs for conservation and sustainable use of marine and coastal biological diversity in the context of activities which will impact on marine resources;

(c) Review the mandates and activities under international agreements that affect marine and coastal biological diversity, and develop analyses that can be offered by the Conference of the Parties to the relevant institutions as to the implications of the Convention on Biological Diversity for these activities.

3. In addressing these issues, the following approaches should be applied:

(a) The work should not be impeded by the lack of full scientific information and will incorporate explicitly the precautionary approach in addressing conservation and sustainable use issues;

(b) The Executive Secretary may interact with a wide range of agencies and organizations competent in the aspects of marine and coastal biodiversity under deliberation to avoid unnecessary duplication and ensure effectiveness and cost-effectiveness;

(c) Recommendations should be made for scientific, technical and technological needs for capacity-building and technology transfer for the conservation and sustainable use of marine and coastal resources at the national, regional, and international levels in the context of the issue being addressed;

(d) The scientific, technical and technological knowledge of local and indigenous communities should be incorporated, as appropriate, as well as community and user-based approaches, in the conservation and sustainable use of marine and coastal biodiversity;

(e) Use should be made, as appropriate, of the clearing-house mechanism and national reports of Parties.

4. The Executive Secretary shall produce, among other relevant documents, the following outputs:

(a) Options for the conservation and sustainable use of biological diversity and its components in the implementation of marine and coastal management and planning practices, including options for the development of integrated marine and coastal area management at regional and national levels;

(b) Annual reports to the Subsidiary Body on Scientific, Technical and Technological Advice, submitted 90 days prior to each meeting of that body. The first annual report will include a three-year work plan.

The Jakarta Ministerial Statement on the Implementation of the Convention on Biological Diversity of 5 June 1992, Jakarta, 1995

Done at Jakarta 25 November 1995

Primary source citation: Copy of text provided by the United Nations

WE, THE MINISTERS PARTICIPATING IN THE MINISTERIAL SEGMENT OF THE SECOND MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY, HELD IN JAKARTA, INDONESIA, ON 14 AND 15 NOVEMBER 1995;

1. REALIZE that biological diversity that comprises variability of genes, species and ecosystems is the world's most valuable resource for the sustainability and welfare of all humankind;

2. NOTE that this second meeting of the Conference of the Parties coincides with the commemoration of the fiftieth anniversary of the Republic of Indonesia's independence and of the creation of the United Nations Organization, and RECOGNIZE that such a historic moment offers an unequalled opportunity to further strengthen multilateral cooperation for promoting the objectives of the Convention on Biological Diversity for the benefit of present and future generations;

3. REAFFIRM the Convention as the legal instrument to advance the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the use of genetic resources;

4. REGARD the Convention as a treaty with a global vision based on common concern and mutual assistance, recognition and articulation of national sovereignty over their own biological resources, particularly genetic resources, and recognition of national responsibility for conservation of biological diversity and for using biological resources sustainably and for creating conditions to facilitate access to genetic resources;

5. FURTHER RECOGNIZE that the Convention is based on mutual reliance and fair and equitable sharing of benefits for the prosperity of humankind;

6. REAFFIRM that, by becoming Parties to the Convention, our Governments have committed themselves to the Convention's objectives and its provisions;

7. REAFFIRM the Convention as a global partnership, based on mutual assistance and international cooperation to achieve the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, for the benefit of present and future generations;

8. REAFFIRM ALSO that the second meeting of the Conference of the Parties to the Convention on Biological Diversity provides the momentum for global agreement relating to the implementation of Article 19, paragraph 3, of the Convention on the consideration of the need for and modalities of a protocol on the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity;

9. RECOGNIZE the urgency of the task we face, and the individual and collective responsibilities of Parties to the Convention for the implementation of biological diversity conservation, sustainable use and sharing of benefits for the equitable welfare of all people;

10. AWARE of the need for more information and knowledge regarding biological diversity at all levels, and the need to implant the value of biological diversity in the minds and hearts of all people, STRESS the importance of promoting education on biological diversity at all levels of formal and non-formal education systems;

11. FURTHER REAFFIRM the importance of the clearing-house mechanism for technical and scientific cooperation in support of the implementation of the Convention at national level and emphasize the need for its accessibility to all countries;

12. ENCOURAGE the Convention, through its relevant organs to strengthen relationships with other relevant conventions and processes, including the Commission on Sustainable Development and its Intergovernmental Panel on Forests;

13. WELCOME the establishment of a position within the Secretariat of the Convention on Biological Diversity on all issues pertaining to the implementation of Article 8(j) of the Convention related to indigenous and local communities;

14. REAFFIRM that there is a critical need for the Conference of the Parties to address the conservation and sustainable use of marine and coastal biological diversity, and urge Parties to initiate immediate action to implement the decisions adopted on this issue. In this context, WELCOME the commitment of the Government of the Republic of Indonesia to play a major role in facilitating such implementation at the global and regional level and the declaration by the Conference of the Parties of the new global consensus on the importance of marine and coastal biological diversity as the "Jakarta Mandate on Marine and Coastal Biological Diversity";

15. FURTHER ENCOURAGE the Conference of the Parties, through its relevant organs, to actively assist Parties to fulfill their obligations, especially through cooperation, collaboration and partnership;

16. URGE the international community to continue to take action and make every effort to assist developing countries to build their own institutional capacity, including human resource development, to conserve and use sustainable biological diversity including through *in-situ* and *ex-situ* conservation and to facilitate the transfer of technology in accordance with the provisions of the Convention;

17. URGE States involved in nuclear testing to take note of the views put forward by a significant number of Parties expressing their strong concern over the impacts of nuclear testing on biodiversity, in particular to the coastal and marine ecosystems and CALL on these States to cease nuclear testing and to conclude a comprehensive test ban treaty in 1996;

18. URGE States that have not yet done so to ratify of or accede to the Convention and to begin implementing the Convention on Biological Diversity;

19. CALL UPON all Governments and the citizens of our planet to celebrate the International Day for Biological Diversity on 29 December, reflecting our individual and joint responsibility for conserving and using biological diversity sustainably;

20. DECLARE that our Governments will continue to spare no effort in undertaking to fulfil the provisions of the Convention for the benefit of life on Earth, for present and future generations.

Program of Work (Decision IV/5) pursuant to the Jakarta Mandate of 15 November 1995, Bratislava, 1998

Done at Bratislava 15 May 1998

Primary source citation: Copy of text provided by the United Nations

IV/5. Conservation and sustainable use of marine and coastal biological diversity, including a programme of work

The Conference of the Parties,

I. PROGRAMME OF WORK ARISING FROM DECISION II/10 (JAKARTA MANDATE ON MARINE AND COASTAL BIOLOGICAL DIVERSITY)

Reaffirming its decision II/10 on the conservation and sustainable use of marine and coastal biological diversity,

Having considered recommendation III/2 of its Subsidiary Body on Scientific, Technical and Technological Advice,

1. Adopts the programme of work on marine and coastal biological diversity, as contained in the annex to the present decision;

2. Urges Parties, countries, relevant organizations and donor agencies to contribute to the implementation of specific elements of the programme of work;

3. Urges Parties, when requesting for assistance through the financial mechanism of the Convention, to propose projects which, while being fully consistent with previous guidance of the Conferences of the Parties, promote the implementation of the programme of work;

4. Urges the Executive Secretary to cooperate with the Convention on Wetlands of International Importance, especially as Waterfowl Habitat, where appropriate, in relation to the implementation of the joint work plan having regard to linkages with the programme of work on inland water biological diversity adopted by decision IV/4;

II. CORAL REEFS

Being deeply concerned at the recent extensive and severe coral bleaching, such as that reported by the African countries, caused by abnormally high water temperatures experienced since January 1998,

Recognizing the potentially severe loss of biological diversity and consequent socio-economic impacts, and

Noting this occurrence as a possible consequence of global warming and in light of the precautionary approach,

1. Requests the Subsidiary Body on Scientific, Technical and Technological Advice to make an analysis of this phenomenon and provide relevant information to the fifth meeting of the Conference of the Parties for its consideration;

2. Instructs the Executive Secretary to express its concern to the Executive Secretary of the United Nations Framework Convention on Climate Change and the Secretary-General of the Convention on Wetlands and convey it to the conferences of the Parties to the United Nations Framework Convention on Climate Change and the Convention on Wetlands at their next meetings;

3. Invites the United Nations Framework Convention on Climate Change to urgently address this issue in its deliberations; and

4. Urges Parties, with reference to programme element 1.3 (c) of programme of work, to take appropriate actions to mitigate impacts upon marine and coastal biological diversity and consequent socio-economic effects;

III. SMALL ISLAND DEVELOPING STATES

Recognizing the uniqueness and extreme fragility of marine and coastal biological diversity of small island developing States (SIDS), the disproportionate responsibility facing small island developing States in the conservation of these biological resources, and the limited capacity of small island developing States to implement the Jakarta Mandate on Marine and Coastal Biological Diversity,

Strongly recommends to Parties, countries, relevant organizations and donor agencies that the special needs and considerations of small island developing States be a focus for implementing each of the elements of the programme of work, as appropriate.

Annex

PROGRAMME OF WORK ON MARINE AND COASTAL BIOLOGICAL DIVERSITY

A. Introduction

1. The aim of this programme of work is to assist the implementation of the Jakarta Mandate on Marine and Coastal Biological Diversity at the national, regional and global levels. It identifies key operational objectives and priority activities within the five key programme elements: integrated marine and coastal area management, marine and coastal living resources, marine and coastal protected areas, mariculture and alien species and genotypes. It also provides a general programme element to encompass the coordination role of the Secretariat, the collaborative linkages required and the effective use of experts.

B. Basic principles

1. Ecosystem approach

2. The ecosystem approach should be promoted at global, regional, national and local levels taking into account the report of the Malawi workshop (document UNEP/CBD/COP/4/Inf.9) and in accordance with decision IV/1 B.

3. Protected areas should be integrated into wider strategies for preventing adverse effects to marine and coastal ecosystems from external activities and take into consideration, inter alia, the provisions of Article 8 of the Convention.

2. Precautionary approach

4. The precautionary approach, as set out in decision II/10, annex II, paragraph 3 (a), should be used as a guidance for all activities affecting marine and coastal biological diversity, being also relevant to many other international agreements, inter alia, the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations, the Washington Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and regional agreements such as OSPAR.

3. The importance of science

5. Science should, inter alia, provide knowledge on key processes and influences in the marine and coastal ecosystems which are critical for structure, function and productivity of biological diversity. Research should focus on understanding the natural factors outside human influence, including intrinsic factors influencing ecosystems themselves, as well as on human interference with ecosystems.

6. Special efforts should be undertaken to support the Global Taxonomy Initiative in the marine and coastal environment in view of the importance of basic taxonomic work for the implementation of the objectives of the work programme, in accordance with decision IV/1 D.

7. It is important to draw upon regional scientific organizations, such as the International Council for the Exploration of the Sea (ICES). The creation and strengthening of regional scientific centres of excellence on the marine and coastal ecosystems, that provide guidance to regional and national managers, should be given priority.

4. Roster of experts

8. The Executive Secretary should make full use of the roster of experts on marine and coastal biological diversity. The use and administration of the roster by the Executive Secretary should be efficient, effective and transparent. Upon request of the Executive Secretary, Parties or other countries and relevant bodies, the experts on the roster are invited to make available their specific expertise in order to contribute to the further development of the scientific, technical, technological and socioeconomic issues. Such requests could entail, inter alia, peer reviews, questionnaires, clarifications or examinations of scientific, technical, technological and socio-economic issues, specific contributions to the compilation of documents, participation in the global and regional workshops, and assisting in connecting the Jakarta Mandate and the present programme of work to international, regional, national and local scientific, technical and technological processes.

5. Local and indigenous communities

9. The programme of work will use and draw upon scientific, technical and technological knowledge of local and indigenous communities in keeping with the contents of Article 8(j) of the Convention as well as community and user-based approaches; in the execution of the programme of work, the involvement of relevant stakeholders including indigenous and local people should be promoted.

6. Levels of implementation

10. National and local. The primary basis for this programme of work is action at national and local levels. The Parties should, in accordance with Article 6 of the Convention, develop national strategies, plans and programmes in order to promote the conservation and sustainable use of marine and coastal biological diversity.

11. Regional. At the regional level, organizations, arrangements and bodies should be invited to coordinate activities of and/or relevant to the programme of work. These organizations should as appropriate and according to their own rules of procedure report to the Convention on their activities. Where regional organizations have not been established, the Parties and other institutions should examine the need for new regional organizations or other mechanisms for regional integration. Cooperation and information flow between the economic sectors involved should be promoted. Regional scientific and technical centres of excellence should be promoted.

12. Global. At the global level, UNEP (including the Global International Water Assessment), FAO, the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Maritime Organization, the United Nations and other relevant bodies should be encouraged to implement the programme of work. These organizations should be invited to inform the Convention on their efforts to implement the Convention.

13. Implementation modalities. This programme of work is the programme of work of the Parties and of the Secretariat. The main function of the Secretariat is to promote the implementation of specific activities and to perform an overall coordination role.

14. Activities associated with the programme of work should be cost-effective and efficient. Duplication of efforts will be avoided, and harmonization of respective programmes of work will be pursued through strong coordination between the Convention and other relevant bodies, with a particular view to the list of partner organizations mentioned in decision II/10, paragraph 13, and the Convention on Wetlands.

C. Programme elements

Programme element 1. Implementation of integrated marine and coastal area management (IMCAM)

Operational objective 1.1: To review the existing instruments relevant to IMCAM and their implication for the implementation of the Convention.

Activities:

(a) To identify existing mechanisms and instruments relevant to IMCAM;

(b) To identify focal points for the implementation of IMCAM at different levels (national, regional and global);

(c) Secretariat to gather, compare and analyse information provided by the focal points;

(d) To convene meetings involving representatives of stakeholders at different levels.

Time schedule: 1998-2000 (minimum three-year period)

Ways and means: The activities will be carried out by the Executive Secretary, with the collaboration of an informal inter-agency task force.

Budgetary implications: Costs related to communications and staff travel to inter-agency meetings and to service meetings. Costs related to convening of meeting of stakeholders on the integration of marine and coastal biological diversity into sectoral policies.

Operational objective 1.2: To promote the development and implementation of IMCAM at the local, national and regional level.

Activities:

(a) To promote, within the framework of IMCAM, the integration of biological diversity concerns in all socio-economic sectors adversely impacting the marine and coastal environment;

(b) To promote the identification or establishment of subregional, regional or global processes for developing advice on the application of IMCAM and issues identified under the operational objective;

(c) To promote adequate protection of areas important for reproduction such as spawning and nursery areas and restoration of such areas and other important habitats for marine living resources;

(d) To promote action to reduce and control sea-based sources of pollution;

(e) To assist the development of national and regional capacity-building;

(f) To provide information on relevant legal and institutional issues, having regard to the United Nations Convention on the Law of the Sea (UNCLOS) and other related international and regional agreements;

(g) To assist the development of appropriate education and public awareness programmes at all levels;

(h) To provide guidance on maintenance and wider application of local and traditional knowledge.

Time schedule: 1998-2000 (minimum three-year period)

Ways and means: The activities should be carried out by the Executive Secretary in collaboration with relevant organizations.

Budgetary implications: No significant budgetary implications.

Operational objective 1.3: To develop guidelines for ecosystem evaluation and assessment, paying attention to the need to identify and select indicators, including social and abiotic indicators, that distinguish between natural and human-induced effects.

Activities:

(a) To promote the development of sets of indicators on which to base decision-making; and convene regional workshops to help select key indicators;

(b) To identify existing organizations and initiatives;

(c) To promote the identification of key habitats for marine living resources on a regional basis, with a view to further develop policies for action to prevent physical alteration and destruction of these habitats, and pursue restoration of degraded habitats, including, inter alia, coral reef systems;

(d) To promote the establishment or strengthening of mechanisms for research, monitoring and assessment of marine and coastal ecosystems and their living resources;

(e) To promote exchange of information and experience using the clearing-house mechanism and other appropriate mechanisms;

(f) To collaborate with relevant organizations in the preparation of guidelines;

Time schedule: 1998-2000 (minimum three-year programme)

Ways and means: The activities should be carried out by the Executive Secretary and the Subsidiary Body on Scientific, Technical and Technological Advice, as part of the work programme on indicators, monitoring and assessment and in collaboration with relevant organizations.

Budgetary implications: Budgetary implications will be covered under the programmes of work on indicators, monitoring and assessment and public education, training and awareness. Voluntary contributions for regional workshops on indicators and public education, training and awareness activities are needed.

Programme element 2. Marine and coastal living resources

Operational objective 2.1: To promote ecosystem approaches to the sustainable use of marine and coastal living resources, including the identification of key variables or interactions, for the purpose of assessing and monitoring, first, components of biological diversity; second, the sustainable use of such components; and, third, ecosystem effects.

Activities:

(a) To develop collaborative links with relevant organizations and institutions;

(b) To promote the exchange of information and experience using appropriate mechanisms;

(c) To promote the identification and development of ecosystem approaches compatible with the sustainable use of marine and coastal living resources;

(d) To promote the identification both of components of the ecosystems which are critical to the functioning of the ecosystem and of key threats;

(e) To promote capacity-building at local, national and regional levels, including local and traditional knowledge;

(f) To carry out a study on the effects of stock enhancement on marine and coastal biological diversity at the species and genetic levels.

Time schedule: 1998-2000 (minimum three-year period)

Ways and means: The Executive Secretary shall promote the undertaking of the activities by relevant organizations and institutions. The information dissemination aspects should be included in the work plan of the clearing-house mechanism unit. The Executive Secretary shall attempt to establish an informal inter-agency task force for this work.

Budgetary implications: Costs related to communications and travel to inter-agency meetings. Relevant organizations are invited to conduct the study, within the framework of existing cooperative arrangements. Additional contributions from Parties, countries and organizations in the organization of capacity building activities are expected.

Operational objective 2.2: To make available to the Parties information on marine and coastal genetic resources, including bioprospecting.

Activity

To explore ways to expand the knowledge base on which to make informed and appropriate decisions about how this area might be managed in accordance with the objectives of the Convention.

Time schedule: 1998/ongoing

Ways and means: The activity should be implemented by the Executive Secretary, making full use of the roster of experts.

Budgetary implications: No significant budgetary implications.

Programme element 3. Marine and coastal protected areas

Operational objective 3.1: To facilitate research and monitoring activities related to the value and the effects of marine and coastal protected areas or similarly restricted management areas on sustainable use of marine and coastal living resources.

Activities:

(a) To collaborate with relevant organizations in the preparation of project proposals;

(b) To work with relevant organizations to identify pilot projects;

(c) To conduct a desk study to gather and assimilate information;

(d) To identify the linkages between conservation and sustainable use;

(e) To facilitate Parties, countries or international/regional organizations in conducting research on the effects of marine and coastal protected or closed areas on population size and dynamics, subject to national legislation.

Time schedule: 1998-onwards (three to five-year period)

Ways and means: The Executive Secretary, in collaboration with relevant organizations and agencies, involving also funding agencies or donor countries, will facilitate and assist in the preparation of project documents and identify pilot projects for research and monitoring, as well as conduct the desk study. The projects should be undertaken by Parties and countries or competent organizations. The Executive Secretary, starting from the roster of experts, will select the names of an ad hoc technical expert group and elaborate the terms of reference for it, both to be endorsed by the Subsidiary Body on Scientific, Technical and Technological Advice. The expert group will carry out its activities under the Subsidiary Body on Scientific, Technical and Technological Advice and will work through electronic correspondence and teleconferences.

Budgetary implications: Costs related to communications. Additional voluntary contributions are needed from Parties or donor countries or funding agencies to fund the projects, the amount depending on the number, nature and scale of the projects.

Operational objective 3.2: To develop criteria for the establishment of, and for management aspects of, marine and coastal protected areas.

Activities:

(a) To compile research findings on aspects of marine and coastal protected areas relevant to their selection, design, establishment and management;

(b) To assist in developing criteria for selection of marine and coastal protected areas, where critical habitats for marine living resources should be one important criterion;

(c) Using the clearing-house mechanism, to assist the exchange of information on research, management issues and problems (including incentive measures) between marine protected area managers, to facilitate continuous improvement in management effectiveness across the global network of marine protected areas;

(d) To implement activities as in subparagraphs (e) to (h) under operational objective 1.2.

Time schedule: 1998-2000 (minimum three-year programme)

Ways and means: The basis for undertaking these activities should be collaboration between the Executive Secretary, under the guidance of the Subsidiary Body on Scientific, Technical and Technological Advice, and relevant international, national and non-governmental organizations. The creation of an informal task force may be an appropriate mechanism, conducting its work through regular communication and through periodic meetings as required.

Budgetary implications: Costs related to communications and to staff travel to inter-agency meetings and to service meetings.

Programme element 4. Mariculture

Operational objectives: To assess the consequences of mariculture for marine and coastal biological diversity and promote techniques which minimize adverse impact.

Activities:

(a) To provide guidance on criteria, methods and techniques which avoid the adverse effects of mariculture and also subsequent stock enhancement on marine and coastal biological diversity and enhance the positive effects of mariculture on marine and coastal productivity;

(b) To collect and disseminate information, data, literature and bibliography relevant to the [illegible]nal

objective and best practice of successful sustainable mariculture, including the use of local species where appropriate;

(c) To evaluate the current state of scientific and technological knowledge on the effects of mariculture on marine and coastal biological diversity.

Time schedule: 1999-onwards (minimum three-year period)

Ways and means: Coordination of this programme of activities within the Secretariat creates the need for a professional with specific high-level expertise. This need could probably best be met through the secondment by a Party or specialized institution of an appropriate professional. To be successful and cost-effective, the work would need to draw upon specialist scientific knowledge world-wide. It would thus need to be supported by the establishment of an ad hoc technical expert group under the Subsidiary Body on Scientific, Technical and Technological Advice, taking into consideration the roster of experts. Operational aspects thus suggest that this work be undertaken from 1999 onwards.

Budgetary implications: Voluntary contribution by a Party or institution to cover the costs of the secondee. Costs for communications and travel to service meetings. Costs related to the convening of expert meeting(s).

Programme element 5. Alien species and genotypes

Operational objective 5.1: To achieve better understanding of the causes of the introduction of alien species and genotypes and the impact of such introductions on biological diversity.

Activities:

(a) To analyse and disseminate information, data and case-studies on the subject;

(b) To develop collaboration with relevant organizations;

(c) To ensure exchange of information and experience, appropriate mechanisms.

Time schedule: 1998-2000 (minimum three-year period)

Ways and means: The Executive Secretary, under the guidance of the Subsidiary Body on Scientific, Technical and Technological Advice, will seek the assistance of relevant organizations through an informal inter-agency task force. In particular, the options will be investigated for collaboration with UNEP, the Scientific Committee on Problems of the Environment (SCOPE), the International Council for the Exploration of the Sea (ICES) and the World Conservation Union (IUCN) Invasive Species Specialist Group and the Global Invasive Species Programme in the development of a global strategy and action plan. In carrying out this work, it is expected that Parties or specialized institutions will second a specialist.

Budgetary implications: Voluntary contribution by a Party or institution to cover the costs of the secondee. Costs for communications.

Operational objective 5.2: To identify gaps in existing or proposed legal instruments, guidelines and procedures to counteract the introduction of and the adverse effects exerted by alien species and genotypes which threaten ecosystems, habitats or species, paying particular attention to transboundary effects; and to collect information on national and international actions to address these problems, with a view to prepare for the development of a scientifically-based global strategy for dealing with the prevention, control and eradication of those alien species which threaten marine and coastal ecosystems, habitats and species.

Activities:

(a) To request views and information from Parties, countries and other bodies;

(b) To analyse the information for the purpose of identifying gaps in legal instruments, guidelines and procedures;

(c) To evaluate the information on the effectiveness of efforts to prevent the introduction of, and to control or eradicate, those alien species which may threaten ecosystems, habitats or species;

(d) To identify means to support capacity-building in developing countries to strengthen their ability to conduct work related to alien species.

Time schedule: 1998-2000 (minimum three-year period)

Ways and means: The activities will be carried out by the Executive Secretary, in collaboration with Parties, countries and other relevant bodies and in cooperation with UNEP, IOC and IMO. It is proposed that a conference with global participation be held and that a Party or specialized institution will be able to host the conference. It is anticipated that the peer review process will be followed for the output of this programme activity.

Budgetary implications: Costs related to communications and staff travel servicing the conference. Voluntary contributions for holding the conference are needed.

Operational objective 5.3: To establish an "incident list" on introductions of alien species and genotypes through the national reporting process or any other appropriate means.

Activities:

(a) To distil references of incidents from the national reports and other appropriate sources;

(b) To make the information available through the clearing-house mechanism or other appropriate mechanisms.

Time schedule: Such information gathering can begin immediately and be informed by national reports as they are provided.

Ways and means: Secretariat

Budgetary implications: Costs related to additional staff time within the national reports unit and the clearing-house mechanism unit.

Programme element 6. General

Operational objective 6.1: To assemble a database of initiatives on programme elements through a cooperative approach with relevant organizations and bodies, with special emphasis on integrated marine and coastal areas management.

Activities:

(a) To identify sources of relevant information and to make this readily available;

(b) To request inputs from Parties, countries and relevant organizations and bodies;

(c) To carry out desk evaluations with the assistance of the roster of experts of available information and to disseminate the findings through the clearing-house mechanism.

Time schedule: 1998-2000 (minimum three-year programme)

Ways and means: Secretariat.

Budgetary implications: Costs related to additional staff time within the clearing-house mechanism unit associated with the design of appropriate databases and posting information.

Operational objective 6.2: To develop a database of experts from the roster and other sources, to be available for the development and implementation of specific elements of national policies on marine and coastal biological diversity, giving full recognition to the importance of taxonomy and following closely the development of the

Global Taxonomy Initiative and in accordance with decision IV/1 D. Special consideration should be given to regional perspectives and the setting up of regional centres of taxonomic expertise, as well as to the taxonomy efforts of other intergovernmental programmes, agencies and relevant institutions.

Activities:

(a) To maintain and update regularly a database of experts on marine and coastal biological diversity;

(b) To make the information available through the clearing-house mechanism;

(c) To promote the strengthening of taxonomic expertise at regional and national levels.

Time schedule: Ongoing

Ways and means: Secretariat, also through relevant organizations, in particular those that deal with taxonomic issues.

Budgetary implications: Costs related to additional staff time within the clearing-house mechanism unit associated with the design of the database and of the Jakarta Mandate on Marine and Coastal Biological Diversity home page.

United Nations Commission on Sustainable Development Decision 4/15 on Protection of the atmosphere and protection of the oceans and all kinds of seas, New York, 1996

Done at New York 3 May 1996

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Decision 4/15. Protection of the atmosphere and protection of the oceans and all kinds of seas

A. Interlinkages

1. The Commission notes that a number of issues are common to both chapters under review - chapter 9 (Protection of the atmosphere) and chapter 17 (Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources). It also notes that both these chapters have interlinkages with several other chapters of Agenda 21. Indeed, the broad-based nature of chapters 9 and 17 can be seen to encompass all important aspects of sustainable development.

2. The Commission stresses the close interrelationship between protection of oceans and all kinds of seas and protection of the atmosphere, in view of the exchange of matter and energy that takes place between the atmosphere and oceans and their influence on marine and terrestrial ecosystems. It therefore calls for the integration of protective measures in order to address effectively the problems of adverse impacts of human activity on the atmosphere and the oceans. To this end, in particular, the Commission considers that there is a need to further strengthen coordination mechanisms between regions and subregions for better exchange of information and experience gained.

B. Protection of the atmosphere

3. The Commission welcomes, with reservations, the proposals contained in the report of the Secretary-General on protection of the atmosphere (E/CN.17/1996/22 and Add.1). It stresses the need for broad international action to address global atmospheric problems, taking into full account principle 7, 16/ of the Rio Declaration on Environment and Development and paragraph 4.3, 17/ of chapter 4 of Agenda 21 (Changing consumption patterns) in developing measures to protect the atmosphere on a global scale. It furthermore stresses that atmospheric protection measures to reduce air pollution, combat climate change and prevent ozone layer depletion should be undertaken at the national, subregional, regional and international levels.

4. The Commission notes the risk of exacerbating other environmental, as well as socio-economic, problems through actions to address an individual issue, and stresses the need to address atmosphere-related problems in an integrated and comprehensive way. It emphasizes that an essential component of measures to protect the atmosphere, environment and human health is the reduction of local emissions - especially urban air pollution - which must be dealt with at the local, regional and international levels on the basis of common but differentiated responsibilities. In addition, it stresses the importance of combating all kinds of land degradation, deforestation, forest degradation and desertification, which have adverse impacts on human health and the environment, and the importance of improved land use management. In this context, the Commission refers to principle 15, 18/ of the Rio Declaration and principle 3, 19/ of article 3 of the United Nations Framework Convention on Climate Change (A/AC.237/18 (Part II)/Add.1, annex I), which reflect the precautionary principle approach. The Commission recommends the application of this approach, taking into account related uncertainties and risks.

5. The Commission stresses the importance of a sound scientific and socio-economic knowledge base upon which appropriate responses to atmospheric pollution can be formulated, and encourages national participation in, and support for, international programmes of relevant scientific, technical and socio-economic research, monitoring and assessment, taking into account the precautionary principle referred to in paragraph 4 above. The Commission welcomes the Second Assessment Report (SAR) adopted by the Intergovernmental Panel on Climate Change (IPCC) in December 1995 as the most comprehensive assessment of climate change issues to date. The report states, among other conclusions, and in the full context of the report, that the balance of evidence suggests a discernible human influence on global climate. 20/ The report emphasizes that the scientific and technical expertise required by the developing countries and by countries with economies in transition to protect the atmosphere needs further strengthening and, to this end, requires the financial and technical support of the international community. It supports the initiative of a number of international organizations to establish an integrated international framework for climate-related programmes.

6. The Commission urges countries that have not yet done so to sign and ratify the United Nations Framework Convention on Climate Change, with special emphasis on the successful conclusion of the Berlin Mandate process; the Vienna Convention for the Protection of the Ozone Layer, its Montreal Protocol and subsequent amendments and adjustments; and the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, and fully implement their commitments therein.

7. The Commission encourages parties to the United Nations Convention to Combat Desertification, as well as those countries in the process of ratification, to coordinate activities with those undertaken under relevant international agreements, including the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the work of the Ad Hoc Intergovernmental Panel on Forests.

16/ "States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures that their societies place on the global environment and of the technologies and financial resources they command."

17/ "Poverty and environmental degradation are closely interrelated. While poverty results in certain kinds of environmental stress, the major cause of the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialized countries, which is a matter of grave concern, aggravating poverty and imbalances."

18/ "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

19/ "The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policy and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties."

20/ This conclusion must be considered within the full context of the IPCC/SAR, and its preamble. The conclusions of the IPCC/SAR must be considered with the caveats and uncertainties contained in the report.

8. The Commission asserts that the production, conversion and use of energy has been and will continue to be one of the fundamental requirements for economic growth and social improvement. Non-sustainable development and use in the energy and other sectors is linked to environmental and societal problems, including air and water pollution, health impacts and global warming.

9. The Commission welcomes the outcome off the Seminar on Decentralize Electrification of Rural Areas (Marrakesh, Morocco, 13-17 November 1995) and calls upon Governments as well as international organizations and non-governmental organizations to consider supporting, as appropriate, the recommendations of the Seminar.

10. The Commission calls on Governments to consider the broad spectrum of cost-effective policy instruments - economic and fiscal, regulatory and voluntary - available to them, including environmental cost internalization and removal of environmentally damaging subsidies, to improve energy efficiency and efficiency standards and to promote the use of sustainable and environmentally sound renewable energy sources, as well as the use of energy sources with low greenhouse gas (GHG) emissions, in all relevant sectors; and encourages Governments and relevant institutions and organizations to cooperate, as appropriate, in the implementation of policy and economic instruments aimed at minimizing adverse effects on international competitiveness and at optimizing the allocation of resources, and to cooperate in minimizing the possible adverse economic impacts on developing countries resulting from the implementation of those policies and measures.

11. The Commission urges Governments and relevant institutions and organizations to utilize education and training, information dissemination, enhancement of knowledge and voluntary agreements to improve efficiency in the production, distribution and use of energy and other natural resources.

12. The Commission urges multilateral financial institutions to use their investment strategies, in cooperation with interested recipient countries, for the development and dissemination of environmentally sound technologies, provided that such considerations do not constitute new barriers and conditions to accessing financial resources.

13. With regard to international cooperation, the Commission refers to paragraph 2 of its decision on financial resources and mechanisms (decision 4/14).

14. The Commission urges Governments and the private sector to increase their research into energy and material efficiency and more environmentally sound production technologies, including improved GHG sequestration technologies, and to actively participate in technology transfer and capacity-building in developing countries and countries with economies in transition. It also urges the industrial sector to take full account of concerns related to the protection of atmosphere and the use of cost-effective environmentally sound technologies in their investment strategies.

15. The Commission notes the rapid growth in the transport sector resulting in a concomitant increase in energy requirements in both industrialized and developing countries. It urges Governments to consider appropriate options, such as the different measures mentioned in paragraph 64 of the report of the Ad Hoc Inter-sessional Working Group on Sectoral Issues (E/CN.17/1996/6). The Commission notes that a Conference on Environment and Transport will be held in 1997 under the auspices of the Economic Commission for Europe (ECE), as suggested in paragraph 9.15 (f) of chapter 9 of Agenda 21 (Protection of the atmosphere).

16. The Commission recommends that Governments and organizations actively support the Montreal Protocol and the efforts of its parties to eliminate the illegal trade in ozone-depleting substances; continue, within existing financial mechanisms, to provide adequate financial and technical support to developing countries and countries with economies in transition, to assist them in phasing out production and consumption of ozone-depleting substances, in accordance with their obligations under the Montreal Protocol; consider the total environmental impact of alternatives to ozone-depleting substances; and give priority to solutions that provide the greatest overall benefit in terms of both ozone protection and prevention of global warming. This will be consistent with an integrated approach to the protection of the atmosphere. The Commission expresses concern about the financial state of the Multilateral Fund of the Montreal Protocol, and calls upon States to make contributions thereto.

17. The Commission urges Governments and organizations, in considering transboundary air pollution issues, to take measures to reduce emissions of acidifying substances with the aim of not exceeding critical loads and levels and to reduce emissions of volatile organic compounds; and urges developed countries to enhance programmes that share management expertise, scientific expertise and information on technical mitigation options with developing countries and countries with economies in transition.

18. The Commission encourages Governments to address the growing problem of transboundary air pollution and, in particular, risks caused by persistent organic pollutants. The Commission notes, in particular, the pollution affecting the Arctic. In this respect the Commission reaffirms the need for effective transboundary air pollution agreements such as the ECE Convention on Long-range Transboundary Air Pollution and its protocols in all affected regions. It urges Governments, as appropriate, to develop and implement policies and programmes, in a cooperative manner, to control emissions and prevent transboundary air pollution in their regions, through, inter alia, increased technology transfer and shared technical information. The Commission stresses the need for research and evaluation of endocrine disrupting chemicals.

19. The Commission requests the Secretary-General to prepare a report for consideration by the Commission at its fifth session, in 1997, covering an inventory of ongoing energy-oriented programmes and activities within the United Nations system, as well as proposals for arrangements as appropriate, that might be needed to foster the linkage between energy and sustainable development within the United Nations system.

C. Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources

20. The Commission takes note of the report of the Secretary-General on protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources (E/CN.17/1996/3 and Add.1).

21. The Commission reaffirms the common aim of promoting the sustainable development, conservation and management of the coastal and marine environment. It stresses that action at the national, subregional and regional levels must play the prime role, but that effective arrangements are needed within global institutions for establishing their coherent priorities for action. It affirms that decisions on questions affecting the marine environment must be the result of an integrated approach taking into account all relevant environmental, social and economic factors, including the special requirements of developing countries, and the best available scientific evidence. To this end, it supports collaboration between the holders of such information and those concerned with the formulation of policies including national policy makers. Such collaboration should reflect a precautionary approach taking into account the uncertainties in the information available and the related risks for people and resources. The Commission therefore states that international arrangements for decision-making must recognize the importance of financial resources, transfer of environmentally sound technology, capacity-building, resource ownership and management, and the exchange of information as well as know-how, among developing and developed countries and countries with economies in transition.

22. The Commission welcomes the considerable progress in recent intergovernmental negotiations related to oceans and seas. The entry into force in 1994 of the United Nations Convention on the Law of the Sea was a fundamental achievement and provides the framework for the protection of the marine environment. Other recent successes include, inter alia, the Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas; the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982; the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; the Code of Conduct for Responsible Fisheries; and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (UNEP, November 1995) (A/51/116, annex II). The immediate need is for the Governments concerned to participate in and implement these agreements.

23. The Commission also welcomes the Jakarta initiative entitled "Conservation and sustainable use of marine and coastal biological diversity" (decision II/10 of the second meeting of the Conference of the Parties to the Convention on Biological Diversity), adopted in November 1995, and the Kyoto Declaration and Plan of Action, adopted in December 1995 by the International Conference on the Sustainable Contribution of Fisheries to Food Security.

24. The Commission recognizes the importance of coral reefs and other related ecosystems as a life-support system of many countries, particularly small island developing States, and as a rich source of biodiversity. The Commission emphasizes the need for development and implementation of integrated coastal and marine area management plans to deal with issues relating to the coastal and marine environment. To this end the Commission welcomes the Call to Action of the International Coral Reef Initiative (ICRI) of June 1995 as a means to address threats to coral reefs and related ecosystems and the inauguration of the 1997 International Year of the Reefs (IYR). The Commission likewise acknowledges that other marine ecosystems such as mangroves, estuaries and seagrass beds gather a broad variety of biodiversity and productivity and also deserve special attention. The Commission requests organizations of the United Nations system to contribute to public education on coral reefs and other coastal marine ecosystems. It urges the international community to strengthen existing institutional mechanisms and knowledge bases in these areas. The Commission further urges concerned Governments, entities within the United Nations systems, multilateral development banks, donor institutions, local communities, non-governmental organizations, the private sector and the scientific community to support the implementation of the ICRI Call to Action, launching local or national coral reef initiatives as part of their plans for integrated coastal development and management.

25. The Commission encourages States, individually and through the International Maritime organization (IMO) and other relevant United Nations organizations and programmes, to continue taking measures to address the environmental effects of shipping.

26. The Commission takes note that with regard to offshore oil and gas activities, IMO conclusions on harmonized environmental regulations have been and are being developed in specific regional programmes. The Commission also notes that IMO supported this approach and encouraged its wider adoption, and concludes that there is no compelling need at this time to further develop globally applicable environmental regulations in respect of the exploitation and exploration aspects of offshore oil and gas activities.

27. The Commission encourages States to continue relevant national and regional reviews of the need for additional measures to address the issue of degradation of the marine environment, as called for in paragraph 17.30 of Agenda 21, taking into account the relevant expertise of IMO, the United Nations Environment Programme (UNEP) and the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat. To this end, it calls for partnership, within specific regions, between Governments and the private sector.

28. The Commission encourages relevant and competent international and regional bodies to make available appropriate inputs to expert meetings to be held in the Netherlands on offshore oil and gas activities, in which national and regional experiences could be exchanged, and invites the Netherlands and Brazil, where a regional meeting recently took place on this subject, to make available to Commission members and other interested States the outcome of these expert meetings.

29. The Commission urges countries that have not yet done so to sign, ratify and implement the International Convention for the Prevention of Pollution from Ships (MARPOL), the Convention on the Prevention of Marine Pollution by Dumping from Ships and Aircraft (London Convention) (1972) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989).

30. The Commission calls on States to adopt, according to their national policies and priorities and with appropriate financial and technical support, appropriate measures to ensure that the management of their watercourses, inland waters and the related catchments are consistent with the aims of their integrated coastal area management. It also calls for account to be taken of the potential impact of decisions on freshwater management systems upon the coastal seas into which relevant rivers drain. It requests States and entities within the United Nations system to promote programmes to guide management and corrective actions to control pollution in the larger coastal urban settlements, and requests the World Bank and regional development banks to continue developing effective means for their implementation.

31. The Commission welcomes the successful outcome of the Intergovernmental Conference to Adopt a Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, held in Washington, D.C., in 1995, and decides to submit to the Economic and Social Council at its substantive session of 1996 a draft resolution to be considered by the General Assembly at its fifty-first session on the institutional arrangements for the implementation of the Global Programme of Action (see chap. I, sect. A).

32. The Commission endorses the request contained in the Washington Declaration on the Protection of the Marine Environment from Land-based Activities, adopted by the Intergovernmental Conference, for the Executive

Director of UNEP, in close partnership with the World Health Organization (WHO), the United Nations Centre for Human Settlements (Habitat), the United Nations Development Programme (UNDP) and other relevant organizations, to prepare proposals for a plan to address the global nature of the problem of inadequate management and treatment of waste water and its consequences for human health and the environment, and to promote the transfer of appropriate and affordable technology drawn from the best available techniques, and referred to in the Global Programme of Action. Such proposals are to be considered by the Governing Council of UNEP at its nineteenth session.

33. The Commission further recognizes the intention of the Governments participating in the Washington Intergovernmental Conference to take action to develop, in accordance with the provisions of the Global Programme of Action, a global, legally binding instrument for the reduction and/or elimination of emissions, discharges and, where appropriate, the elimination of the manufacture and use of the persistent organic pollutants identified in decision 18/32 adopted by the Governing Council of UNEP at its eighteenth session (see A/50/25, annex). The nature of the obligations undertaken must be developed, recognizing the special circumstances of countries in need of assistance. Particular attention should be devoted to the potential need for the continued use of certain persistent organic pollutants to safeguard human health, sustain food production and alleviate poverty in the absence of alternatives and the difficulty of acquiring substitutes and transferring technology for the development and/or production of those substitutes.

34. The Commission urges, as mentioned in paragraph 113 (d) of the Global Programme of Action, consideration by all Governments and international organizations that have expertise in the field of clean-up and disposal of radioactive contaminants to giving appropriate assistance as may be requested for remedial purposes in adversely affected areas.

35. The Commission stresses the fact that the insufficiency of research capacity and information systems is particularly noticeable in the developing world and in small island developing States. It expresses its support for the Global Ocean Observing System (GOOS), established by the United Nations Educational, Scientific and Cultural Organization/Intergovernmental Oceanographic Commission (UNESCO/IOC), and notes the initiative to develop the EuroGOOS system.

1. Implementation of international fishery instruments

36. The Commission on Sustainable Development notes with concern that significant fish stocks are depleted or overexploited, and considers that urgent corrective action is needed to rebuild depleted fish stocks and to ensure the sustainable use of all fish stocks. The Commission therefore welcomes the major steps that have been made towards fulfilling the goals of Agenda 21 as a result of the entry into force of the United Nations Convention on the Law of the Sea in November 1994 and the adoption of two agreements:

(a) The Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas (1993);

(b) The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995);

and the voluntary instrument:

(c) The Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (1995).

37. The Commission also welcomes the successful adoption, in 1995, of the following:

(a) The Rome Consensus on World Fisheries of the FAO Ministerial Meeting on Fisheries (Rome, March);

(b) The Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity (decision II/10 of the second meeting of the Conference of the Parties to the Convention on Biological Diversity), adopted in November;

(c) General Assembly resolutions 50/23, 50/24 and 50/25 relating to the law of the sea and the sustain-

able use and conservation of marine living resources, adopted on 5 December;

(d) The Kyoto Declaration and Plan of Action on the Sustainable Contribution of Fisheries to Food Security (Kyoto, December).

38. The Commission recalls Agenda 21, according to which the ability of developing countries to fulfil the objectives of chapter 17, programme area D is dependent upon their capabilities, including the financial, scientific and technological means at their disposal. Adequate financial, scientific and technological cooperation should be provided to support actions by them to implement these objectives, as well as the provisions of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) and the FAO Code of Conduct for Responsible Fisheries (1995).

39. The Commission agrees that sustainable world fisheries, including aquaculture, contribute significantly to the food supply and to achieving social, economic and development goals. The Commission stresses the importance of effective conservation and management of fish stocks and to this end recommends implementing the recently adopted international instruments in order to:

(a) Prevent or eliminate overfishing and excess fishing capacity;

(b) Apply the precautionary approach as referred to in the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and the FAO Code of Conduct for Responsible Fisheries;

(c) Rebuild fish stocks throughout their entire range of distribution and protect vital habitats;

(d) Strengthen/create regional and subregional fisheries management organizations and arrangements in accordance with the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and the FAO Code of Conduct for Responsible Fisheries;

(e) Strengthen fishery research and increase cooperation in this field;

(f) Promote environmentally sound fisheries technologies, prohibiting dynamiting, poisoning and other comparable destructive fishing practices;

(g) Minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, in accordance with the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and the FAO Code of Conduct for Responsible Fisheries;

(h) Protect fisheries from harmful sea- and land-based activities;

(i) Deter, in accordance with the instruments referred to in paragraph 36 above and international law, the activities of vessels flying the flag of non-members or non-participants which engage in activities which undermine the effectiveness of subregional or regional conservation and management measures;

(j) Increase efforts to ensure full compliance with applicable conservation and management measures;

(k) Increase consultations among all local parties affected by fishery management decisions;

(l) Avoid adverse impacts on small-scale and artisanal fisheries consistent with the sustainable management of fish stocks, while protecting the rights of fishers, including subsistence, small-scale and artisanal fishers.

40. The Commission notes that the FAO Code of Conduct for Responsible Fisheries, in paragraph 6.14, states that international trade in fish and fishery products should be conducted in accordance with the principles, rights and obligations established in the World Trade Organization Agreement and other relevant international agree-

ments. States should ensure that their policies, programmes and practices related to trade in fish and fishery products do not result in obstacles to this trade, environmental degradation or negative social, including nutritional, impacts.

41. The Commission recommends that in the preparations for the World Food Summit, the crucial contribution of sustainably managed fisheries should be taken into consideration.

42. The Commission further recommends that States and entities that have not yet done so should be called upon to sign/ratify/implement and promote awareness and understanding of the instruments referred to in paragraph 36 (a) to (c) above.

43. The Commission also recommends that FAO, as the competent specialized agency for fisheries, should be invited to prepare a report, based on information provided by its member States, on the actions listed above and, more generally, on progress made in improving the sustainability of fisheries, for consideration by the FAO Committee on Fisheries and for submission to the Secretary-General of the United Nations. Such a report would be relevant to the review of ocean issues recommended by the Commission in subsection 2 below.

2. International cooperation and coordination

44. The Commission on Sustainable Development, in order to enhance implementation of the commitment set forth in section F of chapter 17 of Agenda 21 to promote regular intergovernmental review and consideration, within the United Nations system, of general marine and coastal issues, including environment and development matters, agrees on the need:

(a) To better identify priorities for action at the global level to promote conservation and sustainable use of the marine environment;

(b) For better coordination among the relevant United Nations organizations and intergovernmental financial institutions;

(c) To ensure sound scientific, environmental, economic and social advice on these issues.

45. The Commission therefore recommends that the Economic and Social Council approve the following conclusions as regards addressing these issues, subject to the outcome of the special session of the General Assembly in 1997 at which the Assembly will, inter alia, decide on the future work programme of the Commission:

(a) There should be a periodic overall review by the Commission of all aspects of the marine environment and its related issues, as described in chapter 17 of Agenda 21, and for which the overall legal framework is provided by the United Nations Convention on the Law of the Sea. 21/ This review should cover other chapters and provisions of Agenda 21 directly related to the marine environment. This review should draw upon reports of the United Nations Environment Programme (UNEP), and those of other relevant United Nations bodies and international organizations in their respective fields, coordinated by the Administrative Committee on Coordination (ACC) Subcommittee on Oceans and Coastal Areas. Other modalities for the review should be decided by the Commission on Sustainable Development. The results of such reviews should be considered by the General Assembly under an agenda item entitled "Oceans and the law of the sea";

(b) In order to address the need for improved coordination, the Secretary-General should be invited to review the working of the ACC Subcommittee on Oceans and Coastal Areas, with a view to improving its status and effectiveness, including the need for closer inter-agency links between, inter alia, the secretariat of the Subcommittee and UNEP;

(c) The Secretary-General and the executive heads of the agencies and organizations of the United Nations system sponsoring the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) should be invited to review the Group's terms of reference, composition and methods of work, with a view to improving its effectiveness and comprehensiveness while maintaining its status as a source of agreed, independent scientific advice.

United Nations General Assembly Resolution 51/189 on the Institutional arrangements for the implementation of Global Programme of Action for the Protection of Marine Environment from Land-based Activities, New York, 1996

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RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Second Committee (A/51/601)]

51/189. Institutional arrangements for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities

The General Assembly,

Recalling the relevant provisions of Agenda 21,[1] in particular chapters 17, 33, 34, 38 and other related chapters, and the Rio Declaration on Environment and Development,[2]

Recalling also its resolution 50/110 of 20 December 1995 on the report of the Governing Council of the United Nations Environment Programme, in which it endorsed, inter alia, Governing Council decision 18/31 on the protection of the marine environment from land-based activities,

[1] Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions Adopted by the Conference, resolution 1, annex II.

[2] Ibid., annex I.

Noting the successful conclusion of the Intergovernmental Conference to Adopt a Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, which was held in Washington, D.C., from 23 October to 3 November 1995,

Having considered the Washington Declaration on Protection of the Marine Environment from Land-based Activities[3] and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,[4] as well as the proposal of the United Nations Environment Programme on institutional arrangements and implementation of the Global Programme of Action and relevant recommendations of the Commission on Sustainable Development,

1. Endorses the Washington Declaration on Protection of the Marine Environment from Land-based Activities and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities;

2. Stresses the need for States to take the necessary measures for the implementation of the Global Programme of Action at the national and, as appropriate, the regional and international levels;

3. Also stresses the need for States to take action for the formal endorsement by each competent international organization of those parts of the Global Programme of Action that are relevant to their mandates and to accord appropriate priority to the implementation of the Global Programme of Action in the work programme of each organization;

4. Further stresses the need for States to take such action at the next meetings of the governing bodies of the United Nations Environment Programme, the United Nations Development Programme, the United Nations Centre for Human Settlements (Habitat), the Food and Agriculture Organization of the United Nations, the World Health Organization, the International Maritime Organization, the International Atomic Energy Agency, the International Labour Organization and the United Nations Industrial Development Organization and in the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization and the relevant bodies of the International Monetary Fund and the World Bank, as well as in other competent international and regional organizations within and outside the United Nations system;

5. Further stresses the need for international cooperation, as outlined in sections IV.A and B of the Global Programme of Action, in capacity-building, technology transfer and cooperation, and the mobilization of financial resources, including support, in particular for developing countries, especially the least developed countries, countries with economies in transition and small island developing States, and to this end calls upon bilateral donors and international, regional and subregional financial institutions and mechanisms, including the Global Environment Facility, and other competent development and financial institutions:

(a) To ensure that their programmes give appropriate priority for country-driven projects aimed at the implementation of the Global Programme of Action;

(b) To assist with capacity-building in the preparation and implementation of national programmes and in identifying ways and means of funding them;

(c) To improve their coordination so as to enhance the delivery of financial and other support;

6. Invites non-governmental organizations and major groups to initiate and strengthen their actions to facilitate and support the effective implementation of the Global Programme of Action;

7. Requests the Executive Director of the United Nations Environment Programme to prepare, for the consideration of the Governing Council at its nineteenth session, specific proposals on:

(a) The role of the United Nations Environment Programme in the implementation of the Global Programme of Action, including the relevant role of its Regional Seas Programme and Freshwater Unit;

(b) Arrangements for secretariat support to the Global Programme of Action;

(c) Modalities for periodic intergovernmental review of progress in implementing the Global Programme

[3] A/51/116, annex I, appendix II.

[4] Ibid., annex II.

of Action;

8. Calls upon the United Nations Environment Programme, within its available resources, and with the aid of voluntary contributions from States for this purpose, to take expeditious action to provide for the establishment and implementation of the clearing-house mechanism referred to in the Global Programme of Action, and requests the Executive Director of the United Nations Environment Programme to prepare and submit to the Governing Council at its nineteenth session specific proposals on, inter alia:

(a) The establishment of an inter-organizational group to develop the basic design and structure of the clearing-house data directory and its linkages to information delivery mechanisms;

(b) The means of linking the inter-organizational group to ongoing work within the United Nations system on the identification of and access to relevant databases and the comparability of data;

(c) The outline of a pilot project on the development of the clearing-house's source category component on sewage, to be implemented in partnership with the World Health Organization;

9. Calls upon States, in relation to the clearing-house mechanism, to take action in the governing bodies of relevant intergovernmental organizations and programmes so as to ensure that those organizations and programmes take the lead in coordinating the development of the clearing-house mechanism with respect to the following source categories, which are listed in conjunction with the relevant organization(s) or programme(s) but not in order of priority:

(a) Sewage—the World Health Organization;

(b) Persistent organic pollutants—the Inter-organization Programme for the Sound Management of Chemicals, the International Programme on Chemical Safety and the Intergovernmental Forum on Chemical Safety;

(c) Heavy metals—the United Nations Environment Programme in cooperation with the Inter-organization Programme for the Sound Management of Chemicals;

(d) Radioactive substances—the International Atomic Energy Agency;

(e) Nutrients and sediment mobilization—the Food and Agriculture Organization of the United Nations;

(f) Oils (hydrocarbons) and litter—the International Maritime Organization;

(g) Physical alterations, including habitat modification and destruction of areas of concern—the United Nations Environment Programme;

10. Decides to determine, at its special session to be held in June 1997 in accordance with its resolution 50/113 of 20 December 1995, specific arrangements for integrating the outcomes of periodic intergovernmental reviews, as envisaged in paragraph 7 (c) above, in the future work of the Commission on Sustainable Development related to the monitoring of the implementation of and follow-up to Agenda 21, in particular chapter 17.

86th plenary meeting
16 December

Paragraph 36 of the Programme for the Further Implementation of Agenda 21 adopted by United Nations General Assembly resolution S-19/2 of 28 June 1997 during the nineteenth special session of the Assembly, New York, 1997

Done at New York 28 June 1997

Primary source citation: Copy of text provided by the United Nations

Oceans and seas

36. Progress has been achieved since the United Nations Conference on Environment and Development in the negotiation of agreements and voluntary instruments for improving the conservation and management of fishery resources and for the protection of the marine environment. Furthermore, progress has been made in the conservation and management of specific fishery stocks for the purpose of securing the sustainable utilization of these resources. Despite this, the decline of many fish stocks, high levels of discards and rising marine pollution continue. Governments should take full advantage of the challenge and opportunity presented by the International Year of the Ocean in 1998. There is a need to continue to improve decision-making at the national, regional and global levels. To address the need for improving global decision-making on the marine environment, there is an urgent need for Governments to implement decision 4/15 of the Commission on Sustainable Development, in which the Commission, *inter alia*, called for a periodic intergovernmental review by the Commission of all aspects of the marine environment and its related issues, as described in chapter 17 of Agenda 21, and for which the overall legal framework was provided by the United Nations Convention on the Law of the Sea. There is a need for concerted action by all countries and for improved cooperation to assist developing countries in implementing the relevant agreements and instruments in order that they may participate effectively in the sustainable use, conservation and management of their fishery resources, as provided for in the Convention and other international legal instruments, and achieve integrated coastal zone management. In that context, there is an urgent need for:

(*a*) All Governments to ratify or to accede to the relevant agreements as soon as possible and to implement effectively such agreements as well as relevant voluntary instruments;

(*b*) All Governments to implement General Assembly resolution 51/189 of 16 December 1996, including the strengthening of institutional links to be established between the relevant intergovernmental mechanisms involved in the development and implementation of integrated coastal zone management. Following progress on the United Nations Convention on the Law of the Sea, and bearing in mind Principle 13 of the Rio Declaration on Environment and Development, there is a need to strengthen the implementation of existing international and regional agreements on marine pollution, with a view in particular to ensuring better contingency planning, response, and liability and compensation mechanisms;

(*c*) Better identification of priorities for action at the global level to promote the conservation and sustainable use of the marine environment, as well as better means for integrating such action;

(*d*) Further international cooperation to support the strengthening, where needed, of regional and subregional agreements for the protection and sustainable use of the oceans and seas;

(*e*) Governments to prevent or eliminate overfishing and excess fishing capacity through the adoption of management measures and mechanisms to ensure the sustainable management and utilization of fishery resources and to undertake programmes of work to achieve the reduction and elimination of wasteful fishing practices, wherever they may occur, especially in relation to large-scale industrialized fishing. The emphasis given by the Commission on Sustainable Development at its fourth session to the importance of effective conservation and management of fish stocks, and in particular to eliminating overfishing, in order to identify specific steps at national or regional levels to prevent or eliminate excess fishing capacity, will need to be carried forward in all appropriate international forums including, in particular, the Committee on Fisheries of the Food and Agriculture Organization of the United Nations;

(*f*) Governments to consider the positive and negative impact of subsidies on the conservation and management of fisheries through national, regional and appropriate international organizations and, based on these analyses, to consider appropriate action,

(*g*) Governments to take actions, individually and through their participation in competent global and regional forums, to improve the quality and quantity of scientific data as a basis for effective decisions related to the protection of the marine environment and the conservation and management of marine living resources; in this regard, greater international cooperation is required to assist developing countries, in particular small island developing States, to operationalize data networks and clearing houses for information-sharing on oceans. In this context, particular emphasis must be placed on the collection of biological and other fisheries-related information and the resources for its collation, analysis and dissemination.

MULTILATERAL

MARINE MAMMALS

Amendment (Adoption of Mandatory Ship Reporting Systems) to the International Convention for the Safety of Life at Sea of 1 November 1974, London, 1994

Done at London 23 May 1994

Entered into force 1 January 1996

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of Transportation

ANNEX 2

RESOLUTION MSC. 31(63).
adopted on 23 May 1994

ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING FURTHER article VIII(b) of the International Convention for the Safety of Life at Sea (SOLAS), 1974, hereinafter referred to as "the Convention", concerning the procedures for amending the Annex to the Convention, other than the provisions of chapter I,

HAVING CONSIDERED, at its sixty-third session, amendments to the Convention proposed and circulated in accordance with article VIII(b)(i) thereof,

1. ADOPTS, in accordance with article VIII(b)(iv) of the Convention, the amendments to the Convention, the text of which is set out in the Annexes to the present resolution;

2. DETERMINES, in accordance with article VIII(b)(vi)(2)(bb) of the Convention, that:

(a) the amendments set out in Annex 1 shall be deemed to have been accepted on 1 July 1995; and

(b) the amendments set out in Annex 2 shall be deemed to have been accepted on 1 January 1998;

unless, prior to these dates, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments;

3. INVITES Contracting Governments to note that, in accordance with article VIII(b)(vii)(2) of the Convention:

(a) the amendments set out in Annex 1 shall enter into force on 1 January 1996; and

(b) the amendments set out in Annex 2 shall enter into force on 1 July 1998;

upon their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article VIII(b)(v) of the Convention, to transmit certified copies of the present resolution and the text of the amendments contained in the Annexes to all Contracting Governments to the Convention;

5. FURTHER REQUESTS the Secretary-General to transmit copies of the resolution and its Annexes to Members of the Organization which are not Contracting Governments to the Convention.

ANNEX 1

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Regulation V/8-1 - Ship reporting systems

1 The following new regulation V/8-1 is added:

" Regulation 8-1

Ship reporting systems

(a) Ship reporting systems contribute to safety of life at sea, safety and efficiency of navigation, and protection of the marine environment. A ship reporting system, when adopted and implemented in accordance with the guidelines and criteria developed by the Organization* pursuant to this regulation, shall be used by all ships, or certain categories of ships or ships carrying certain cargoes in accordance with the provisions of each system so adopted.

(b) The Organization is recognized as the only international body for developing guidelines, criteria and regulations on an international level for ship reporting systems. Contracting Governments shall refer proposals for the adoption of ship reporting systems to the Organization. The Organization will collate and disseminate to Contracting Governments all relevant information with regard to any adopted ship reporting system.

(c) This regulation and its associated guidelines and criteria do not apply to any warship, naval auxiliary or other vessel owned or operated by a Contracting Government and used, for the time being, only on government non-commercial service; however, such ships are encouraged to participate in ship reporting systems that have been adopted in accordance with this regulation.

(d) The initiation of action for establishing a ship reporting system is the responsibility of the Government or Governments concerned. In developing such systems, provisions of the guidelines and criteria developed by the Organization* shall be taken into account.

(e) Ship reporting systems not submitted to the Organization for adoption do not necessarily need to comply with this regulation. However, Governments implementing such systems are encouraged to follow, wherever possible, the guidelines and criteria developed by the Organization*. Contracting Governments may submit such systems to the Organization for recognition.

(f) Where two or more Governments have a common interest in a particular area, they should formulate proposals for a co-ordinated ship reporting system an the basis of agreement between them. Before proceeding with a proposal for adoption of a ship reporting system, the Organization shall disseminate details of the proposal to those Governments which have a common interest in the area covered by the proposed system. Where a co-ordinated ship reporting system is adopted and established, it shall have uniform procedures and operations.

(g) After adoption of a ship reporting system in accordance with this regulation, the Government or Governments concerned shall take all measures necessary for the promulgation of any information needed for the efficient and effective use of the system. Any adopted ship reporting system shall have the capability of interaction and the ability to assist ships with information when necessary. Such systems shall be operated in accordance with the guidelines and criteria developed by the Organization* pursuant to this regulation.

(h) The master of a ship shall comply with the requirements of adopted ship reporting systems and report to the appropriate authority all information required in accordance with the provisions of each such system.

(i) All adopted ship reporting systems and actions taken to enforce compliance with those systems shall be consistent with international law, including the relevant provisions of the United Nations Convention on the Law of the Sea.

* Refer to guidelines and criteria to be adopted by the Maritime Safety Committee of the Organization by resolution MSC.1 | 64. Refer also to the General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants, adopted by the Organization by resolution A.648(16).

(j) Nothing in this regulation or its associated guidelines and criteria shall prejudice the rights and duties of Governments under international law or the legal regime of international straits.

(k) The participation of ships in accordance with the provisions of adopted ship reporting systems shall be free of charge to the ships concerned.

(l) The Organization shall ensure that adopted ship reporting systems are reviewed under the guidelines and criteria developed by the Organization*."

* Refer to guidelines and criteria to be adopted by the Maritime Safety Committee of the Organization by resolution MSC.[ ](64). Refer also to the General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants, adopted by the Organization by resolution A.648(16).

Amendment (Adoption of Resolution and Annexes on Ship Reporting Systems for North Atlantic Right Whales off the Northeastern and Southeastern Coasts of the United States) to the International Convention for the Safety of Life at Sea of 1 November 1974, London, 1998

Done at London 7 December 1998

Entered into force 1 July 1999

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of Commerce

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ANNEX 16

RESOLUTION MSC.85(70)

(adopted on 7 December 1998)

MANDATORY SHIP REPORTING SYSTEMS

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING ALSO regulation V/8-1 of the International Convention for the Safety of Life at Sea (SOLAS), 1974 concerning the adoption by the Organization of ship reporting systems.

RECALLING FURTHER resolution A.858(20) which authorizes the Committee to perform the function of adopting ship reporting systems on behalf of the Organization,

TAKING INTO ACCOUNT the Guidelines and criteria for ship reporting systems adopted by MSC.43(64),

HAVING CONSIDERED the recommendations of the Sub-Committee on Safety of Navigation at its forty-fourth session,

1. ADOPTS, in accordance with SOLAS regulation V/8-1, the mandatory ship reporting systems:

   — Off the northeastern and the southeastern coasts of the United States area described in Annex 1 to the present resolution; and

   — In the Strait of Dover/Pas-de-Calais area described in Annex 2.

2. DECIDES that the aforementioned mandatory ship reporting systems will enter into force at 0000 hours UTC on 1 July 1999.

3. REQUESTS the Secretary-General to bring this resolution and its Annexes to the attention of Member Governments and Contracting Governments to the 1974 SOLAS Convention.

ANNEX 1

DESCRIPTION OF THE MANDATORY SHIP REPORTING SYSTEMS FOR PROTECTION OF ENDANGERED NORTH ATLANTIC RIGHT WHALES IN SEA AREAS OFF THE NORTHEASTERN AND SOUTHEASTERN COASTS OF THE UNITED STATES

1 Categories of ships required to participate in the system

All ships of 300 gross tonnage or greater are required to participate in the reporting systems, except sovereign immune vessels which are exempt from reporting by regulation V/8-1 (c).

2 Geographical coverage of the proposed systems and the number and edition of the reference chart used for the delineation of the system

2.1 Northeastern United States: Geographical boundaries of the proposed northeast area include the water of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts (Appendix 1). Co-ordinates of the proposed area are as follows: from a point on Cape Ann, Massachusetts at 42°39'.00 N, 70°37'.00 W; then northeast to 42°45'.00 N, 70°13'.00 W; then southeast to 42°10'00 N, 68°31'.00 W; then south to 41°00'.00 N, 68°31'.00 W; then west to 41°00'.00 N, 69°17'.00 W; then northeast to 42°05'.00 N, 70°02'.00 W, then west to 42°04'.00 N, 70°10'.00 W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Anne at 42°39'.00 N, 70°37'.00 W. NOAA Chart No. 13009.

2.2 Southeastern United States. Geographical boundaries of the proposed southeast area include coastal waters within about 25 nautical miles along a 90 nautical miles stretch of the Atlantic seaboard in Florida and Georgia (Appendix 2). The area extends from the shoreline east to longitude 80°51'.60 W with the southern and northern boundary at latitudes 30°00'.00 N and 31°27'.00 N, respectively. NOAA Chart No. 11009.

3 Format, content of report, times and geographical positions for submitting reports, authority to whom the reports should be sent, available services

3.1 Format

The format for reporting is as set forth in paragraph 2 of the appendix to resolution A.851(20). An example of a transmission between ship and shore is at Appendix 3.

3.2 Content

Ships are required to provide the following information: the name of the ship; call sign or IMO identification number if applicable; position when entering the system; course; speed; route; and destination. Commercially sensitive information received in conjunction with the reporting system shall be kept confidential.

3.3 Geographical position for submitting reports

Participating ships are required to report to a shore-based authority only when entering the reporting area during a single voyage (that is, a voyage in which a ship is in the area to visit one or multiple ports or traverse the area before leaving for a port outside the reporting area); ships will not be required to report in again after leaving a port in the area or when exiting the system.

3.4 Authority

The authority for both areas of the system is the United States Coast Guard.

4 Information to be provided to participating ships and procedures to be followed

Ships will be provided with the following information:

4.1 Mariners shall be informed that they are entering an area of critical importance for the protection of the highly endangered right whale; that such whales are present; and that ship strikes pose a serious threat to whales and may cause damage to ships. Communication systems between ship and shore are described in paragraphs 7 and 8, below.

4.2 To obtain seasonal right whale advisories which are broadcast periodically, mariners would also be advised to monitor Coast Guard Broadcast Notice to Mariners, NAVTEX, NOAA Weather Radio, and, in the northeastern ship reporting system area only, the Cape Cod Canal Vessel Traffic Control and the Bay of Fundy Vessel Traffic Control. These advisories are based on surveys that are flown seasonally and in daylight and good weather conditions only. The sighting information may be useful only for brief periods as the whales move and surveys detect a small percentage of the whales present.

4.3 Mariners would be advised to consult with NAVTEX, Inmarsat-C SafetyNET (satellite text broadcasts), the United States Coast Pilot, Notice to Mariners, the nautical charts for information on the boundaries of the right whale critical habitat and the national marine sanctuary, applicable regulations, and precautionary measures that mariners may take to reduce the risk of hitting right whales. Mariners will further be advised that information placards, videos, and other educational materials are available from shipping agents, port authorities, pilots, relevant state agencies, the Coast Guard, and the National Marine Fisheries Service.

4.4 In the message back to the ship, mariners would also be requested to report any whale sightings and dead, injured, or entangled marine mammals to the nearest local Coast Guard station.

4.5 Where available, specific and timely information on whale locations will be provided to ships.

5 Radio communications required for the system, frequencies on which reports should be transmitted and the information to be reported

5.1 The reporting system in the northeastern United States will operate independently of the system in the southeastern United States. The system in the northeastern United States will operate year round, and the system in the southeastern United States will operate from 15 November through 15 April.

5.2 The systems will require ships to report in standard format preferably through Inmarsat-C. For ships using Inmarsat-C, the message will be sent to the shore-based authority described in paragraph 7.1 and a message will be automatically transmitted back to the ship also via Inmarsat-C.

5.3 Ships not equipped with Inmarsat-C will be required to report in standard format to the shore-based authority described in paragraph 7.2, either through direct-printing telegraphy (Inmarsat A/B, HF, MF or VHF) or by telephony (Inmarsat A/B, MF, HF or VHF). Ships reporting through such direct-printing telegraphy systems will receive a message from the shore-based authority described in paragraph 7.2.

5.4 The language used for reports in the system will be English, using the IMO *Standard Marine Communication Phrases* where necessary. Standard phrases in a prescribed format will be used in all direct-printing telegraphy and radiotelephony communications.

5.5 Commercially sensitive information will be kept confidential.

5.6 The United States will review the ship reporting systems no later than five years after their implementation date, to examine advances made in ship communication technologies and to ensure effective operation of the systems.

6 Rules and regulations in force in the areas of the system

The United States has taken appropriate action to implement international conventions to which it is a party including, where appropriate, adopting domestic legislation and promulgating regulations through domestic law. Relevant laws in force include domestic legislation and regulations to implement the International Convention on Collision Regulations, the Safety of Life at Sea Convention, the International Convention on the Prevention of Pollution from Ships, the International Convention on Oil Pollution, Preparedness, Response and Co-operation, the Convention on the International Trade in Endangered Species of Wild Fauna and Flora, the International Convention for the Regulation of Whaling, and other treaties. Relevant domestic legislation includes the Ports and Waterways Safety Act, the Endangered Species Act, the Whaling Convention Act, the Marine Mammal Protection Act, the Marine Protection Resources and Sanctuaries Act, and a variety of other acts. In some cases, rules have been promulgated including those relating specifically to right whales or governing ship operations. For example, a regulation has been promulgated which prohibits most approaches within 500 yards (460 meters) of a northern right whale. This regulation, as well as other domestic law, is implemented and enforced consistent with international law.

7 Shore-based facilities to support operation of the system

7.1 The shore-based authority for those ships reporting via Inmarsat-C is the United States Coast Guard. The e-mail address to be used for this reporting will be provided well in advance of implementation of the systems through Notices to Mariners.

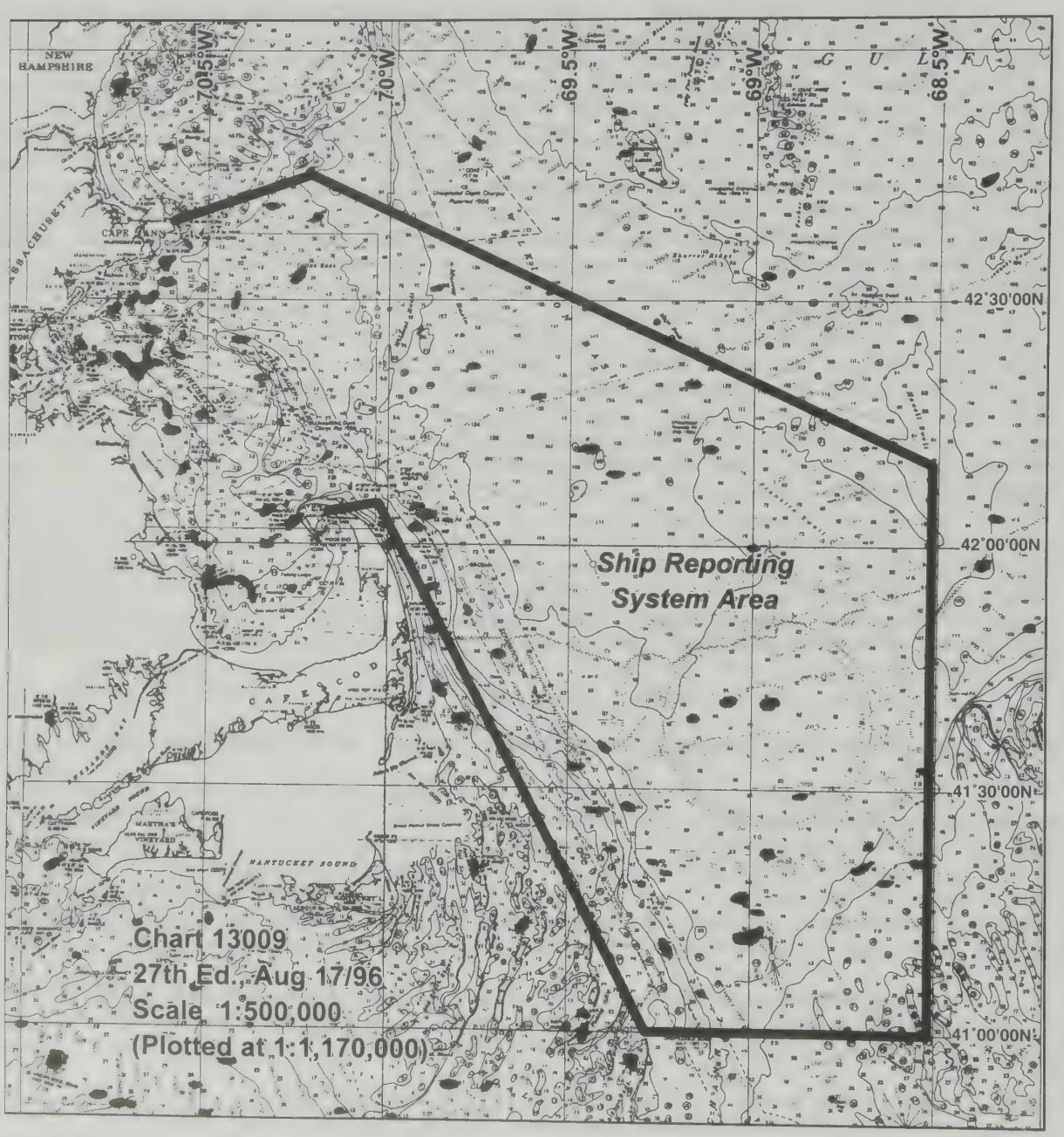
7.2 The small percentage of ships that do not have Inmarsat-C capabilities will be required to contact the nearest Coast Guard communication station through appropriate communication channels. The United States Coast Guard maintains communication stations along the United States east coast. Information about these stations can be found in the GMDSS Master Plan (GMDSS/Circ.7) or National Imagary and Mapping Agency (NIMA) Publication 117. Information received from the ships will be sent electronically to a central location for data storage, handling, and retrieval.

8 Alternative communications if the communication facilities of the shore-based authority fails

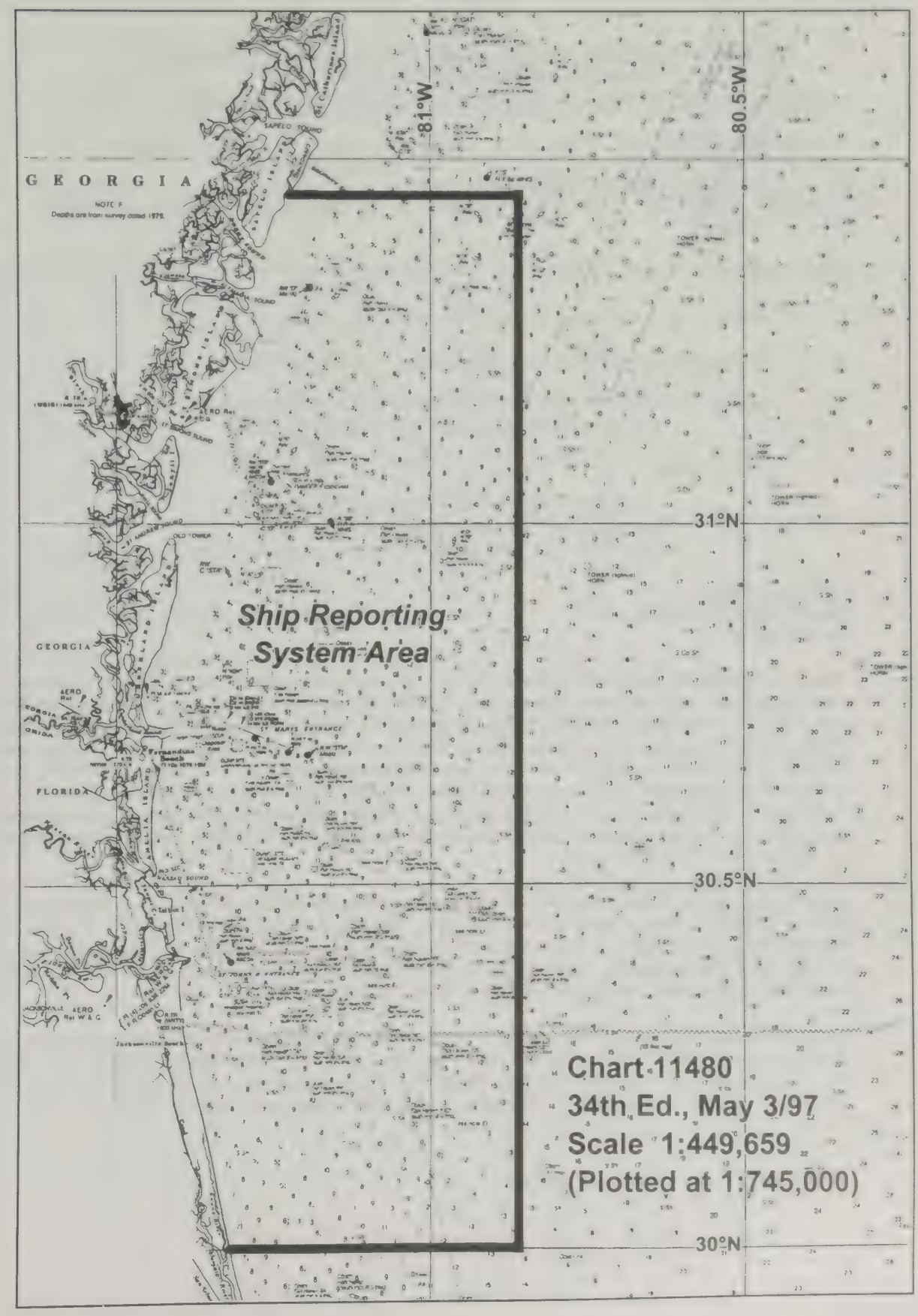
Short-term failure of the reporting systems due to communications problems will not result in a loss of life, and will have minimal impact on the safety of vessels. NAVTEX Broadcast Notice to Mariners can be used to notify mariners of the temporary failure of the system and can provide mariners with basic information necessary to avoid right whales. Downtime is likely to be minimal and is not expected to result in increased ship strikes and whale mortality. For those ships reporting through INMARSAT C or direct printing radiotelegraphy, the standard protocol now used for such systems will be used to re-route incoming and outgoing communications through an alternate address and it is expected that this will minimize the system's downtime, though some delay may occur.

The Coast Guard operated MF, HF, VHF voice communications systems, by design, have built in redundancies and overlapping coverage areas and an individual equipment or site failure are unlikely to affect the ability of a mariner to contact a Coast Guard facility to make a required report.

Appendix 1


NEW HAMPSHIRE
MASSACHUSETTS
CAPE ANN
CAPE COD
MARTHA'S VINEYARD
NANTUCKET SOUND
GULF
70.5°W
70°W
69.5°W
69°W
68.5°W
42°30'00N
42°00'00N
41°30'00N
41°00'00N
Ship Reporting System Area
Chart 13009
27th Ed., Aug 17/96
Scale 1:500,000
(Plotted at 1:1,170,000)

Appendix 2


81°W
80.5°W
31°N
30.5°N
30°N
GEORGIA
FLORIDA
Ship Reporting System Area
Chart 11480
34th Ed., May 3/97
Scale 1:449,659
(Plotted at 1:745,000)

Appendix 3

Example of Message from the Ship

A Ship Name

B Call Sign or IMO Identification Number

D Course

E Speed

H Entry

I Destination

L Route

Example of Message Back to the Ship

00016April1999
From: Shore-based Authority
To: M/V Ship

You are entering an area where North Atlantic right whales exist. Right whales are critically endangered and at risk from ship strikes. Whales can damage ships' sonar dome, propeller, and shaft. Recommend monitoring Coast Guard Broadcast Notice to Mariners, NAVTEX, NOAA Weather Radio, or, in the northeast only, Cape Cod Canal Vessel Traffic Control and Bay of Fundy Vessel Traffic Control for latest advisories and sightings reports. These advisories and reports are based on surveys which are conducted seasonally; however, such surveys only locate only a small percentage of the whales, the information from them remains valid only for a short period of time because the whales move, and they cannot be conducted at night or in inclement weather.

Urge exercising prudent seamanship to avoid approaching right whales. Recommend consulting NAVTEX, Inmarsat-C SafetyNET, the United States Coast Pilot, and Notices to Mariners for information on precautionary measures that may be taken to reduce the risk of hitting right whales and for applicable regulations. Right whale critical habitat and the Stellwagen Bank National Marine Sanctuary are also marked on charts.

Right whale information placards, videos, and other educational material are available from shipping agents, port authorities, relevant state agencies, the United States Coast Guard, and the National Marine Fisheries Service. Mariners are requested to report right whale sightings, whale entanglements, or dead whales to the Coast Guard on VHF Channel 16.

Amendments to the Schedule to the International Convention for the Regulation of Whaling of 2 December 1946, Aberdeen, 1996

Done at Aberdeen 28 June 1996

Depositary: United States of America

Primary source citation: Copy of text provided by the International Whaling Commission

34. AMENDMENTS TO THE SCHEDULE

The following amendments to the Schedule were adopted (changes in **bold** type):

Paragraph 13(b)(4)
Substitute the dates **1996/97** and **1998/99**.

The following additional changes are also necessary:

Paragraphs 11 and 12, and Tables 1, 2 and 3:
Substitute the dates **1996/97** pelagic season, **1997** coastal season, **1997** season, or **1997** as appropriate.

Amendments to the Schedule to the International Convention for the Regulation of Whaling of 2 December 1946, Monte Carlo, 1997

Done at Monte Carlo 24 October 1997

Depositary: United States of America

Primary source citation: Copy of text provided by the International Whaling Commission

Appendix 11

AMENDMENTS TO THE SCHEDULE ADOPTED AT THE 49TH ANNUAL MEETING OF THE COMMISSION

(changes in **bold** type):

Revise paragraph 13(b)(1) to read:

(1) The taking of bowhead whales from the Bering-Chukchi-Beaufort Sea stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines, and further provided that:

(i) For the years **1998, 1999, 2000, 2001 and 2002**, the number of bowhead **whales** landed shall not exceed **280. For each of these years** the number of bowhead **whales** struck shall not exceed **67**, except that any unused portion of a strike quota **from any** year **(including 15 unused strikes from the 1995-97 quota)** shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.

(ii) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.

(iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee, **particularly its advice arising from the 1998 Comprehensive Assessment.**

Revise paragraph 13(b)(2) to read:

(2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Party on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines **whose traditional aboriginal subsistence and cultural needs have been recognised**.

(i) For the years 1998, 1999, 2000, 2001 and 2002, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that the number of gray whales taken in any one of the years 1998, 1999, 2000, 2001 or 2002 shall not exceed 140.

(ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.

(iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.

Amend Table 1 to replace the number '140' with a dot in the appropriate column, retaining the footnote.

Revise paragraph 13(b)(3) to read:

The taking by aborigines of minke whales from the West Greenland and Central stocks and fin whales from the West Greenland stock is permitted and then only when the meat and products are to be used exclusively for local consumption.

(i) The number of fin whales from the West Greenland stock taken in accordance with this sub-paragraph shall not exceed the limits shown in Table 1.

(ii) The number of minke whales from the Central stock taken in accordance with this sub-paragraph shall not exceed 12 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the quota for each year shall be carried forward from that year and added to the quota of any subsequent years, provided that no more than 3 shall be added to the quota for any one year.

(iii) The number of minke whales struck from the West Greenland stock shall not exceed 175 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the strike quota for each year shall be carried forward from that year and added to the strike quota of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year. This provision will be reviewed if new scientific data become available within the five year period and if necessary amended on the basis of the advice of the Scientific Committee.

Amend Table 1 as follows:

(a) In column FIN, footnote 2 should read as follows:
Available to be taken by aborigines pursuant to paragraph 13(b)(3). Catch limit for each of the years **1998, 1999, 2000, 2001 and 2002.**

(b) In column MINKE, the number 12 should be substituted by a dot.

The following additional changes are also necessary:

Paragraphs 11 and 12 and Tables 1, 2 and 3:

Substitute the dates **1997/98** pelagic season, **1998** coastal season, **1998** season, or **1998** as appropriate.

Amendments to the Schedule to the International Convention for the Regulation of Whaling of 2 December 1946, Muscat, 1998

Done at Muscat 20 May 1998

Depositary: United States of America

Primary source citation: Copy of text provided by the International Whaling Commission

26. AMENDMENTS TO THE SCHEDULE

As no modifications were made at this meeting to the provision for zero catch limits for commercial whaling with effect from the 1986 coastal and the 1985/86 pelagic seasons, the following amendments to the Schedule of International Convention for the Regulation of Whaling were therefore necessary:

Paragraphs 11 and 12, and Tables 1, 2 and 3:

Substitute the dates 1998/99 pelagic season, 1999 coastal season, 1999 season, or 1999 as appropriate.

Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea, and Contiguous Atlantic Area, Monaco, 1996

Done at Monaco 24 November 1996

Entered into force (not in force)

Depositary: Monaco

Primary source citation: Copy of text provided by the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals

The Parties,

Recalling that the Convention on the Conservation of Migratory Species of Wild Animals, 1979, encourages international co-operative action to conserve migratory species;

Recalling further that the third meeting of the Conference of the Parties to the Convention, held in Geneva in September 1991, urged Range States to collaborate with a view to concluding, under the Convention's auspices, a multilateral agreement for the conservation of small cetaceans of the Mediterranean and Black Seas;

Recognizing that cetaceans are an integral part of the marine ecosystem which must be conserved for the benefit of present and future generations, and that their conservation is a common concern;

Recognizing the importance of integrating actions to conserve cetaceans with activities related to the socio-economic development of the Parties concerned by this Agreement, including maritime activities such as fishing and the free circulation of vessels in accordance with international law;

Aware that the conservation status of cetaceans can be adversely affected by factors such as degradation and disturbance of their habitats, pollution, reduction of food resources, use and abandonment of non-selective fishing gear, and by deliberate and incidental catches;

Convinced that the vulnerability of cetaceans to such threats warrants the implementation of specific conservation measures, where they do not already exist, by States or regional economic integration organizations that exercise sovereignty and/or jurisdiction over any part of their range, and by States, flag vessels of which are engaged outside national jurisdictional limits in activities that may affect the conservation of cetaceans;

Stressing the need to promote and facilitate co-operation among States, regional economic integration organizations, intergovernmental organizations and the non governmental sector for the conservation of cetaceans of the Black Sea, Mediterranean Sea, the waters which interconnect these seas, and the contiguous Atlantic area;

Convinced that the conclusion of a multilateral agreement and its implementation through co-ordinated, concerted actions will contribute significantly to the conservation of cetaceans and their habitats in the most efficient manner, and will have ancillary benefits for other species;

Acknowledging that, despite past or ongoing scientific research, knowledge of the biology, ecology, and population dynamics of cetaceans is deficient, and that it is necessary to develop co-operation for research and monitoring of these species in order to fully implement conservation measures;

Acknowledging further that effective implementation of such an agreement will require that assistance be provided, in a spirit of solidarity, to some Range States for research, training and monitoring of cetaceans and their habitats, as well as for the establishment or improvement of scientific and administrative institutions;

Recognizing the importance of other global and regional instruments of relevance to the conservation of cetaceans, signed by many Parties, such as the International Convention for the Regulation of Whaling, 1946; the Convention for the Protection of the Mediterranean Sea against Pollution, 1976, its related protocols and the Action Plan for the Conservation of Cetaceans in the Mediterranean Sea adopted under its auspices in 1991; the Convention on the Conservation of European Wildlife and Natural Habitats, 1979; the United Nations Convention on the Law of the Sea, 1982; the Convention on Biological Diversity, 1992; the Convention for the Protection of the Black Sea against Pollution, 1992; and the Global Plan of Action for the Conservation, Management and Utilization of Marine Mammals of the United Nations Environment Programme, adopted in 1984; as well as initiatives of *inter alia* the General Fisheries Council for Mediterranean, the International Commission for Scientific Exploration of the Mediterranean, and the International Commission for the Conservation of Atlantic Tunas,

Have agreed as follows:

Article I
Scope, Definitions and Interpretation

1. a) The geographic scope of this Agreement, hereinafter referred to as the "Agreement area", is constituted by all the maritime waters of the Black Sea and theMediterranean and their gulfs and seas, and the internal waters connected to or interconnecting these maritime waters, and of the Atlantic area contiguous to the Mediterranean Sea west of the Straits of Gibraltar. For the purpose of this Agreement:

   - the Black Sea is bounded to the southwest by the line joining Capes Kelaga and Dalyan (Turkey);

   - the Mediterranean Sea is bounded to the east by the southern limits of the Straits of the Dardanelles between the lighthouses of Mehmetcik and Kumkale (Turkey) and to the west by the meridian passing through Cape Spartel lighthouse, at the entrance to the Strait of Gibraltar; and

   - the contiguous Atlantic area west of the Strait of Gibraltar is bounded to the east by the meridian passing through Cape Spartel lighthouse and to the west by the line joining the lighthouses of Cape St. Vicente (Portugal) and Casablanca (Morocco).

   b) Nothing in this Agreement nor any act adopted on the basis of this Agreement shall prejudice the rights and obligations, the present and future claims or legal views of any State relating to the law of the sea or to the Montreux Convention of 20 July 1936 *(Convention concernant le régime des détroits),* in particular the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas, the right and the modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State and the port State.

   c) No act or activity undertaken on the basis of this Agreement shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

2. This Agreement applies to all cetaceans that have a range which lies entirely or partly within the Agreement area or that accidentally or occasionally frequent the Agreement area, an indicative list of which is contained in Annex 1 to this Agreement.

3. For the purpose of this Agreement:

a) "Cetaceans" means animals, including individuals, of those species, subspecies or populations of *Odontoceti* or *Mysticeti*;

b) "Convention" means the Convention on the Conservation of Migratory Species of Wild Animals, 1979;

c) "Secretariat of the Convention" means the body established under Article IX of the Convention;

d) "Agreement secretariat" means the body established under Article III, paragraph 7, of this Agreement;

e) "Scientific Committee" means the body established under Article III, paragraph 7, of this Agreement;

f) "Range" means all areas of water that a cetacean inhabits, stays in temporarily, or crosses at any time on its normal migration route within the Agreement area.

g) "Range State" means any State that exercises sovereignty and/or jurisdiction over any part of the range of a cetacean population covered by this Agreement, or a State, flag vessels of which are engaged in activities in the Agreement area which may affect the conservation of cetaceans;

h) "Regional economic integration organization" means an organization constituted by sovereign States which has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Agreement;

i) "Party" means a Range State or a regional economic integration organization for which this Agreement is in force;

j) "Subregion", depending on the particular context, means either the region comprising the coastal States of Black Sea or the region comprising the coastal States of the Mediterranean Sea and the contiguous Atlantic area; any reference in the Agreement to the States of a particular subregion shall be taken to mean the States which have any part of their territorial waters within that subregion, and States, flag vessels of which are engaged in activities which may affect the conservation of cetaceans in that subregion; and

k) "Habitat" means any area in the range of cetaceans where they are temporarily or permanently resident, in particular, feeding areas, calving or breeding grounds, and migration routes.

In addition, the terms defined in Article I, subparagraphs 1 a) to e), and i) of the Convention shall have the same meaning, *mutatis mutandis*, in this Agreement.

4. This Agreement is an agreement within the meaning of Article IV, paragraph 4, of the Convention.

5. The annexes to this Agreement form an integral part thereof, and any reference to the Agreement includes a reference to its annexes.

Article II
Purpose and Conservation Measures

1. Parties shall take co-ordinated measures to achieve and maintain a favourable conservation status for cetaceans. To this end, Parties shall prohibit and take all necessary measures to eliminate, where this is not already done, any deliberate taking of cetaceans and shall co-operate to create and maintain a network of specially protected areas to conserve cetaceans.

2. Any Party may grant an exception to the prohibition set out in the preceding paragraph only in emergency situations as provided for in Annex 2, paragraph 6, or, after having obtained the advice of the Scientific Committee, for the purpose of non-lethal *in situ* research aimed at maintaining a favourable conservation status for cetaceans. The Party concerned shall immediately inform the Bureau and the Scientific Committee, through the Agreement secretariat, of any such exception that has been granted. The

Agreement secretariat shall inform all Parties of the exception without delay by the most appropriate means.

3. In addition, Parties shall apply, within the limits of their sovereignty and/or jurisdiction and in accordance with their international obligations, the conservation, research and management measures prescribed in Annex 2 to this Agreement, which shall address the following matters:

   a) adoption and enforcement of national legislation;

   b) assessment and management of human-cetacean interactions;

   c) habitat protection;

   d) research and monitoring;

   e) capacity building, collection and dissemination of information, training and education; and

   f) responses to emergency situations.

   Measures concerning fisheries activities shall be applied in all waters under their sovereignty and/or jurisdiction and outside these waters in respect of any vessel under their flag or registered within their territory.

4. In implementing the measures prescribed above, the Parties shall apply the precautionary principle.

Article III
Meeting of the Parties

1. The Meeting of the Parties shall be the decision-making body of this Agreement.

2. The Depositary shall convene, in consultation with the Secretariat of the Convention, a session of the Meeting of the Parties to this Agreement not later than one year after the date of its entry into force. Thereafter, the Agreement secretariat shall convene, in consultation with the Secretariat of the Convention, ordinary sessions of the Meeting of the Parties at intervals of not more than three years, unless the Meeting of the Parties decides otherwise.

3. The Agreement secretariat shall convene an extraordinary session of the Meeting of the Parties on the written request of at least two thirds of the Parties.

4. The United Nations, its Specialized Agencies, the International Atomic Energy Agency, any State not a Party to this Agreement, secretariats of other global and regional conventions or agreements concerned *inter alia* with the conservation of cetaceans, and regional or subregional fisheries management organizations with competence for species found temporarily or permanently resident in the Agreement area may be represented by observers in sessions of the Meeting of the Parties. Any other agency or body technically qualified in the conservation of cetaceans may be represented at sessions of the Meeting of the Parties by observers, unless at least one third of the Parties present object. Once admitted to a session of the Meeting of the Parties, an observer shall continue to be entitled to participate in future sessions unless one third of the Parties object at least thirty days before the start of the session.

5. Only Parties have the right to vote. Each Party shall have one vote. Regional economic integration organizations which are Parties to this Agreement shall exercise, in matters within their competence, their right to vote with a number of votes equal to the number of their member States which are Parties to the Agreement. A regional economic integration organization shall not exercise its right to vote if its member States exercise theirs and vice versa.

6. All decisions of the Meeting of the Parties shall be adopted by consensus except as otherwise provided in Article X of this Agreement. However, if consensus cannot be achieved in respect of matters covered by the annexes to the Agreement, a decision may be adopted by a two thirds majority of the Parties present and voting. In the event of a vote, any Party may, within one hundred and fifty days, notify the Depositary in writing of its intention not to apply the said decision.

7. At its first session, the Meeting of the Parties shall:

   a) adopt its rules of procedure;

   b) establish an Agreement secretariat to perform the secretariat functions listed in Article IV of this Agreement;

   c) designate in each subregion, within an existing institution, a Co-ordination unit to facilitate implementation of the measures prescribed in Annex 2 to this Agreement;

   d) elect a Bureau as provided for in Article VI;

   e) establish a Scientific Committee, as provided for in Article VII; and

   f) decide on the format and content of Party reports on the implementation of the Agreement, as provided for in Article VIII.

8. At each of its ordinary sessions, the Meeting of the Parties shall:

   a) review scientific assessments of the conservation status of cetaceans of the Agreement area and the habitats which are important to their survival, as well as the factors which may affect them unfavourably;

   b) review the progress made and any difficulties encountered in the implementation of this Agreement on the basis of the reports of the Parties and of the Agreement secretariat;

   c) make recommendations to the Parties as it deems necessary or appropriate and adopt specific actions to improve the effectiveness of this Agreement;

   d) examine and decide upon any proposals to amend, as may be necessary, this Agreement;

   e) adopt a budget for the next financial period and decide upon any matters relating to the financial arrangements for this Agreement;

   f) review the arrangements for the Agreement secretariat, the Co-ordination units and the Scientific Committee;

   g) adopt a report for communication to the Parties to this Agreement and to the Conference of the Parties of the Convention;

   h) agree on the provisional time and venue of the next meeting; and

   i) deal with any other matter relating to implementation of this Agreement.

Article IV
Agreement Secretariat

1. Subject to the approval of the Conference of the Parties to the Convention, an Agreement secretariat shall be established within the Secretariat of the Convention. If the Secretariat of the Convention is unable, at any time, to provide this function, the Meeting of the Parties shall make alternative arrangements.

2. The functions of the Agreement secretariat shall be:

a) to arrange and service the sessions of the Meeting of the Parties;

b) to liaise with and facilitate co-operation between Parties and non-Party Range States, and international and national bodies whose activities are directly or indirectly relevant to the conservation of cetaceans in the Agreement area;

c) to assist the Parties in the implementation of this Agreement, ensuring coherence between the subregions and with measures adopted pursuant to other international instruments in force;

d) to execute decisions addressed to it by the Meeting of the Parties;

e) to invite the attention of the Meeting of the Parties to any matter pertaining to this Agreement;

f) to provide to each ordinary session of the Meeting of the Parties a report on the work of the Agreement secretariat, the Co-ordination units, the Bureau, and the Scientific Committee, and on the implementation of the Agreement based on information provided by the Parties and other sources;

g) to administer the budget for this Agreement;

h) to provide information to the general public concerning this Agreement and its objectives; and

i) to perform any other function entrusted to it under this Agreement or by the Meeting of the Parties.

3. The Agreement secretariat, in consultation with the Scientific Committee and the Co-ordination units, shall facilitate the preparation of guidelines covering *inter alia*:

a) the reduction or elimination, as far as possible and for the purposes of this Agreement, of adverse human-cetacean interactions;

b) habitat protection and natural resource management methods as they relate to cetaceans;

c) emergency measures; and

d) rescue methods.

Article V
Co-ordination Units

1. The functions of the subregional Co-ordination units shall be:

a) to facilitate implementation in the respective subregions of the activities provided for in Annex 2 to this Agreement, in accordance with instructions of the Meeting of the Parties;

b) to collect and evaluate information that will further the objectives and implementation of the Agreement and provide for appropriate dissemination of such information; and

c) to service meetings of the Scientific Committee and to prepare a report for communication to the Meeting of the Parties through the Agreement secretariat.

The designation of the Co-ordination units and their functions shall be reviewed, as appropriate, at each session of the Meeting of the Parties.

2. Each Co-ordination unit, in consultation with the Scientific Committee and the Agreement secretariat, shall facilitate the preparation of a series of international reviews or publications, to be updated regularly, including:

a) reports on the status and trends of populations, as well as gaps in scientific knowledge;

b) a subregional directory of important areas for cetaceans; and

c) a subregional directory of national authorities, research and review centres, scientists and non-governmental organizations concerned with cetaceans.

Article VI
Bureau

1. The Meeting of the Parties shall elect a Bureau consisting of the Chairperson and Vice Chairpersons of the Meeting of the Parties and shall adopt rules of procedure for the Bureau, as proposed by the Agreement secretariat. The Chairperson of the Scientific Committee shall be invited to participate as an observer in the meetings of the Bureau. Whenever necessary, the Agreement secretariat shall provide secretarial services.

2. The Bureau shall:

a) provide general policy guidance and operational and financial direction to the Agreement secretariat and the Co-ordination units concerning the implementation and promotion of the Agreement;

b) carry out, between sessions of the Meeting of the Parties, such interim activities on its behalf as may be necessary or assigned to it by the Meeting of the Parties; and

c) represent the Parties vis-à-vis the Government of the host country or organizations of the Agreement secretariat and the Meeting of the Parties, the Depositary and other international organizations in matters relating to this Agreement and its secretariat.

3. At the request of its Chairperson, the Bureau shall normally meet once per annum at the invitation of the Agreement secretariat, which shall inform all Parties of the date, venue and agenda of such meetings.

4. The Bureau shall provide a report on its activities for each session of the Meeting of the Parties which will be circulated to all Parties in advance of the session by the Agreement secretariat.

Article VII
Scientific Committee

1. A Scientific Committee, comprising persons qualified as experts in cetacean conservation science, shall be established as an advisory body to the Meeting of the Parties. The Meeting of the Parties will entrust the functions of the Scientific Committee to an existing organization in the Agreement area that ensures geographically-balanced representation.

2. Meetings of the Scientific Committee shall be convened by the Agreement secretariat at the request of the Meeting of the Parties.

3. The Scientific Committee shall:

a) provide advice to the Meeting of the Parties on scientific and technical matters having a bearing on the implementation of the Agreement, and to individual Parties between sessions, as appropriate, through the Co-ordination unit of the subregion concerned;

b) advise on the guidelines as provided for in Article IV, paragraph 3, assess the reviews prepared in accordance with Annex 2 to this Agreement and formulate recommendations to the Meeting of the Parties relating to their development, contents and implementation;

c) conduct scientific assessments of the conservation status of cetacean populations;

d) advise on the development and co-ordination of international research and monitoring programmes and make recommendations to the Meeting of the Parties concerning further research to be carried out;

e) facilitate the exchange of scientific information and of conservation techniques;

f) prepare for each session of the Meeting of the Parties a report of its activities which shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the session of the Meeting of the Parties and circulated forthwith by the Agreement secretariat to all Parties;

g) render timely advice on the exceptions of which it has been informed pursuant to Article II, paragraph 2; and

h) carry out, as may be necessary, other tasks referred to it by the Meeting of the Parties.

4. The Scientific Committee, in consultation with the Bureau and the respective Co-ordination units, may establish working groups as may be necessary to deal with specific tasks. The Meeting of the Parties shall agree a fixed budget allocation for this purpose.

Article VIII
Communication and Reporting

Each Party shall:

a) designate a focal point for this Agreement, and shall communicate without delay the focal point's name, address and telecommunication numbers to the Agreement secretariat, for prompt circulation to the other Parties and to the Co-ordination units; and

b) prepare for each ordinary session of the Meeting of the Parties, beginning with the second session, a report on its implementation of the Agreement with particular reference to the conservation measures and scientific research and monitoring it has undertaken. The format of such reports shall be determined by the first session of the Meeting of the Parties and reviewed as may be necessary at any subsequent session. Each report shall be submitted to the Agreement secretariat not less than one hundred and twenty days before the opening of the session of the Meeting of the Parties for which it has been prepared, and copies shall be circulated forthwith to the other Parties by the Agreement secretariat.

Article IX
Financial Arrangements

1. The scale of contributions to the budget of this Agreement shall be determined by the Meeting of the Parties at its first session. No regional economic integration organization shall be required to contribute more than 2.5 per cent of the administrative costs.

2. Decisions relating to the budget and any changes to the scale of contributions that may be found necessary shall be adopted by the Meeting of the Parties by consensus.

3. The Meeting of the Parties may establish a supplementary conservation fund from voluntary contributions of Parties or from any other source in order to increase the funds available for monitoring, research, training and projects relating to the conservation of cetaceans.

4. Parties are also encouraged to provide technical and financial support on a bilateral or multilateral basis to assist Range States which are developing countries or countries with economies in transition to implement the provisions of this Agreement.

5. The Agreement secretariat shall undertake periodically a review of potential mechanisms for providing additional resources, including funds and technical assistance, for the implementation of this Agreement, and shall report its findings to the Meeting of the Parties.

Article X
Amendment of the Agreement

1. This Agreement may be amended at any ordinary or extraordinary session of the Meeting of the Parties.

2. Proposals for amendments to the Agreement may be made by any Party. The text of any proposed amendment and the reasons for it shall be communicated to the Agreement secretariat not less than one hundred and fifty days before the opening of the session. The Agreement secretariat shall transmit copies forthwith to the Parties. Any comments on the text by the Parties shall be communicated to the Agreement secretariat not less than sixty days before the opening of the session. The Secretariat shall communicate to the Parties, as soon as possible after the last day for submission of comments, all comments submitted by that day.

3. Any additional annex or any amendment to the Agreement other than an amendment to its annexes shall be adopted by a two thirds majority of the Parties present and voting, and shall enter into force for those Parties which have accepted it on the thirtieth day after the date on which two thirds of the Parties to the Agreement at the date of the adoption of the additional annex or amendment have deposited their instruments of acceptance with the Depositary. For any Party that deposits an instrument of acceptance after the date on which two thirds of the Parties have deposited their instruments of acceptance, the additional annex or amendment shall enter into force on the thirtieth day after the date on which it deposits its instrument of acceptance.

4. Any amendment to an annex to the Agreement shall be adopted by a two thirds majority of the Parties present and voting and shall enter into force for all Parties on the one hundred and fiftieth day after the date of its adoption by the Meeting of the Parties, except for Parties that have entered a reservation in accordance with paragraph 5 of this Article.

5. During the period of one hundred and fifty days provided for in paragraph 4 of this Article, any Party may by written notification to the Depositary enter a reservation with respect to an amendment to an annex to the Agreement. Such reservation may be withdrawn by written notification to the Depositary, and thereupon the amendment shall enter into force for that Party on the thirtieth day after the date of withdrawal of the reservation.

Article XI
Effect of this Agreement on Legislation and International Conventions

1. The provisions of this Agreement shall not affect the right of any Party to maintain or adopt more stringent measures for the conservation of cetaceans and their habitats, nor the rights or obligations of any Party deriving from any existing treaty convention or agreement to which it is a party, except where the exercise of those rights and obligations would threaten the conservation of cetaceans.

2. Parties shall implement this Agreement consistently with their rights and obligations arising under the law of the sea.

Article XII
Settlement of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Agreement shall be subject to negotiation between the Parties involved in the dispute, or to mediation or conciliation by a third party if this is acceptable to the Parties concerned.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may by mutual consent submit the dispute to arbitration or judicial settlement. The Parties submitting the dispute shall be bound by the arbitral or judicial decision.

Article XIII
Signature, Ratification, Acceptance, Approval or Accession

1. This Agreement shall be open for signature by any Range State, whether or not areas under its jurisdiction lie within the Agreement area, or regional economic integration organization, at least one member of which is a Range State, either by:

   a) signature without reservation in respect of ratification, acceptance or approval; or

b) signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. This Agreement shall remain open for signature at Monaco until the date of its entry into force.

3. This Agreement shall be open for accession by any Range State or regional economic integration organization mentioned in paragraph 1, above, on and after the date of entry into force of the Agreement.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article XIV
Entry into Force

1. This Agreement shall enter into force on the first day of the third month following the date on which at least seven coastal States of the Agreement area or regional economic integration organizations, comprising at least two from the subregion of the Black Sea and at least five from the subregion of the Mediterranean Sea and contiguous Atlantic area, have signed without reservation in respect of ratification, acceptance or approval, or have deposited their instruments of ratification, acceptance or approval in accordance with Article XIII of this Agreement.

2. For any Range State or regional economic integration organization which has:

a) signed without reservation in respect of ratification, acceptance, or approval;

b) ratified, accepted, or approved; or

c) acceded to

this Agreement after the date on which the number of Range States and regional economic integration organizations necessary to enable entry into force have signed it without reservation or have ratified, accepted or approved it, this Agreement shall enter into force on the first day of the third month following the signature without reservation, or deposit, by that State or organization, of its instrument of ratification, acceptance, approval or accession.

Article XV
Reservations

The provisions of this Agreement shall not be subject to general reservations. However, a specific reservation may be entered by any State in respect of a specifically delimited part of its internal waters, on signature without reservation in respect of ratification, acceptance or approval or, as the case may be, on the deposit of its instrument of ratification, acceptance, approval or accession. Such a reservation may be withdrawn at any time by the State which had entered it by notification in writing to the Depositary; the State concerned shall not be bound by the application of the Agreement to the waters which are the object of the reservation until thirty days after the date on which the reservation has been withdrawn.

Article XVI
Denunciation

Any Party may denounce this Agreement at any time by written notification to the Depositary. The denunciation shall take effect twelve months after the date on which the Depositary has received the notification.

Article XVII
Depositary

1. The original of this Agreement, in the Arabic, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Government of the Principality of Monaco, which

shall be the Depositary. The Depositary shall transmit certified copies of the Agreement to all States and regional economic integration organizations referred to in Article XIII, paragraph 1, of this Agreement, and to the Agreement secretariat after it has been established.

2. As soon as this Agreement enters into force, a certified copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

3. The Depositary shall inform all States and regional economic integration organizations that have signed or acceded to the Agreement, and the Agreement secretariat, of:

a) any signature;

b) any deposit of an instrument of ratification, acceptance, approval or accession;

c) the date of entry into force of this Agreement and of any additional annex as well as of any amendment to the Agreement or to its annexes;

d) any reservation with respect to an additional annex or an amendment to an annex;

e) any notification of withdrawal of a reservation; and

f) any notification of denunciation of this Agreement.

The Depositary shall transmit to all States and regional economic integration organizations that have signed or acceded to this Agreement, and to the Agreement secretariat, the text of any reservation, any additional annex and any amendment to the Agreement or to its annexes.

In witness whereof the undersigned, being duly authorized to that effect, have signed this Agreement.

Done at Monaco on the twenty-fourth day of November 1996.

ANNEX I

INDICATIVE LIST OF CETACEANS OF THE BLACK SEA TO WHICH THIS AGREEMENT APPLIES

PHOCOENIDAE	
Phocoena phocoena	Harbour porpoise
DELPHINIDAE	
Tursiops truncatus	Bottlenose dolphin
Delphinus delphis	Common dolphin

INDICATIVE LIST OF CETACEANS OF THE MEDITERRANEAN SEA AND THE CONTIGUOUS ATLANTIC AREA TO WHICH THIS AGREEMENT APPLIES

PHOCOENIDAE	
Phocoena phocoena	Harbour porpoise
DELPHINIDAE	
Steno bredanensis	Rough-toothed dolphin
Grampus griseus	Risso's dolphin
Tursiops truncatus	Bottlenose dolphin
Stenella coeruleoalba	Striped dolphin
Delphinus delphis	Short-beaked common dolphin
Pseudorca crassidens	False killer whale
Orcinus orca	Killer whale
Globicephala melas	Long-finned pilot whale
ZIPHIIDAE	
Mesoplodon densirostris	Blainville's beaked whale
Ziphius cavirostris	Cuvier's beaked whale
PHYSETERIDAE	
Physeter macrocephalus	Sperm whale
KOGIIDAE	
Kogia simus	Dwarf sperm whale
BALAENIDAE	
Eubalaena glacialis	Northern right whale
BALAENOPTERIDAE	
Balaenoptera acutorostrata	Minke whale
Balaenoptera borealis	Sei whale
Balaenoptera physalus	Fin whale
Megaptera novaeangliae	Humpback whale

The present Agreement shall also apply to any other cetaceans not already listed in this annex, but which may frequent the Agreement area accidentally or occasionally.

ANNEX 2
CONSERVATION PLAN

The Parties shall undertake, to the maximum extent of their economic, technical, and scientific capacities, the following measures for the conservation of cetaceans, giving priority to conserving those species or populations identified by the Scientific Committee as having the least favourable conservation status, and to undertaking research in areas or for species for which there is a paucity of data.

1. **Adoption and enforcement of national legislation**

Parties to this Agreement shall adopt the necessary legislative, regulatory or administrative measures to give full protection to cetaceans in waters under their sovereignty and/or jurisdiction and outside these waters in respect of any vessel under their flag or registered within their territory engaged in activities which may affect the conservation of cetaceans. To this end, Parties shall:

a) develop and implement measures to minimize adverse effects of fisheries on the conservation status of cetaceans. In particular, no vessel shall be allowed to keep on board, or use for fishing, one or more drift nets whose individual or total length is more than 2.5 kilometres;

b) introduce or amend regulations with a view to preventing fishing gear from being discarded or left adrift at sea, and to require the immediate release of cetaceans caught incidentally in fishing gear in conditions that assure their survival;

c) require impact assessments to be carried out in order to provide a basis for either allowing or prohibiting the continuation or the future development of activities that may affect cetaceans or their habitat in the Agreement area, including fisheries, offshore exploration and exploitation, nautical sports, tourism and cetacean-watching, as well as establishing the conditions under which such activities may be conducted;

d) regulate the discharge at sea of, and adopt within the framework of other appropriate legal instruments stricter standards for, pollutants believed to have adverse effects on cetaceans; and

e) endeavour to strengthen or create national institutions with a view to furthering implementation of the Agreement.

2. **Assessment and management of human-cetacean interactions**

Parties shall, in co-operation with relevant international organizations, collect and analyse data on direct and indirect interactions between humans and cetaceans in relation to *inter alia* fishing, industrial and touristic activities, and land-based and maritime pollution. When necessary, Parties shall take appropriate remedial measures and shall develop guidelines and/or codes of conduct to regulate or manage such activities.

3. **Habitat protection**

Parties shall endeavour to establish and manage specially protected areas for cetaceans corresponding to the areas which serve as habitats of cetaceans and/or which provide important food resources for them. Such specially protected areas should be established within the framework of the Convention for the Protection of the Mediterranean Sea against Pollution, 1976, and its relevant protocol, or within the framework of other appropriate instruments.

4. **Research and monitoring**

Parties shall undertake co-ordinated, concerted research on cetaceans and facilitate the development of new techniques to enhance their conservation. Parties shall, in particular:

a) monitor the status and trends of species covered by this Agreement, especially those in poorly known areas, or species for which little data are available, in order to facilitate the elaboration of conservation measures;

b) co-operate to determine the migration routes and the breeding and feeding areas of the species covered by the Agreement in order to define areas where human activities may need to be regulated as a consequence;

c) evaluate the feeding requirements of the species covered by the Agreement and adapt fishing regulations and techniques accordingly;

d) develop systematic research programmes on dead, stranded, wounded or sick animals to determine the main interactions with human activities and to identify present and potential threats; and

e) facilitate the development of passive acoustic techniques to monitor cetacean populations.

5. **Capacity building, collection and dissemination of information, training and education**

Taking into account the differing needs and the developmental stages of the Range States, Parties shall give priority to capacity building in order to develop the necessary expertise for the implementation of the Agreement. Parties shall co-operate to develop common tools for the collection and dissemination of information about cetaceans and to organize training courses and education programmes. Such actions shall be conducted in concert at the subregional and Agreement level, supported by the Agreement secretariat, the Co-ordination units and the Scientific Committee and carried out in collaboration with competent international institutions or organizations. The results shall be made available to all Parties. In particular, Parties shall co-operate to:

a) develop the systems for collecting data on observations, incidental catches, strandings, epizootics and other phenomena related to cetaceans;

b) prepare lists of national authorities, research and rescue centres, scientists and non-governmental organizations concerned with cetaceans;

c) prepare a directory of existing protected or managed areas which could benefit the conservation of cetaceans and of marine areas of potential importance for the conservation of cetaceans;

d) prepare a directory of national and international legislation concerning cetaceans;

e) establish, as appropriate, a subregional or regional data bank for the storage of information collected under paragraphs a) to d) above;

f) prepare a subregional or regional information bulletin on cetacean conservation activities or contribute to an existing publication serving the same purpose;

g) prepare information, awareness and identification guides for distribution to users of the sea;

h) prepare, on the basis of regional knowledge, a synthesis of veterinary recommendations for the rescue of cetaceans; and

i) develop and implement training programmes on conservation techniques, in particular, on observation, release, transport and first aid techniques, and responses to emergency situations.

6. **Responses to emergency situations**

Parties shall, in co-operation with each other, and whenever possible and necessary, develop and implement emergency measures for cetaceans covered by this Agreement when exceptionally unfavourable or endangering conditions occur. In particular, Parties shall:

a) prepare, in collaboration with competent bodies, emergency plans to be implemented in case of threats to cetaceans in the Agreement area, such as major pollution events, important strandings or epizootics; and

b) evaluate capacities necessary for rescue operations for wounded or sick cetaceans; and

c) prepare a code of conduct governing the function of centres or laboratories involved in this work.

In the event of an emergency situation requiring the adoption of immediate measures to avoid deterioration of the conservation status of one or more cetacean populations, a Party may request the relevant Co-ordination unit to advise the other Parties concerned, with a view to establishing a mechanism to give rapid protection to the population identified as being subject to a particularly adverse threat.

MULTILATERAL

FISHERIES

Convention (with annexes) for the regulation of the meshes of fishing nets and the size limits of fish, London, 1946

Done at London 5 April 1946

Entered into force 5 April 1953

Depositary: United Kingdom

Primary source citation: United Nations Treaty Series

Preamble

The Governments of Belgium, Denmark, Eire, France, Iceland, the Netherlands, Norway, Poland, Portugal, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland, desiring to conclude a Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, have agreed as follows :

Part I.—Extent of the Convention

Article 1

The area to which this Convention applies shall be all waters which are situated within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 48 degrees north latitude and between 42 degrees west longitude and 32 degrees east longitude, but excluding the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbierg and from Gilbierg Head to the Kullen.

Article 2

Nothing in the present Convention shall be deemed to diminish the exclusive rights of vessels registered or owned in the territory of each Contracting Government to fish in waters where that Contracting Government has exclusive jurisdiction over fisheries.

Article 3

Nothing in this Convention shall be deemed to prejudice the claims of any Contracting Government in regard to the limits of territorial waters.

PART II.—REGULATION OF THE MESHES OF FISHING NETS AND THE SIZE LIMITS OF FISH

Article 4

Subject to the provisions of Articles 8, 10 and 16(2), the provisions of this Convention shall apply to all vessels of any Contracting Government either when they are operating in the waters where that Contracting Government has exclusive jurisdiction over fisheries, or when they are operating outside such waters.

Article 5

No vessel shall carry on board or use any trawl, seine, or other net towed or hauled at or near the bottom of the sea, which has in any part of the net meshes of less dimensions than those specified in Annex I[1] to this Convention : provided that a trawl net made of single twine and containing no manila or sisal in any part may be carried on board or used by a vessel, notwithstanding that such a net has a minimum size of mesh 5 mm. less than the dimensions specified in Annex I to this Convention.

Article 6

Notwithstanding the provisions of Article 5, vessels fishing for mackerel, clupeoid fishes, sand eels (*Ammodytes*), smelts, eels, great weevers (*Trachinus draco*), shrimps, prawns, nephrops or molluscs, may carry on board and use nets having meshes of dimensions less than those so specified : provided that (*a*) any fishing instruments used by such vessels for the capture of any of the fish described in this Article shall not be used for the purpose of capturing other kinds of fish ; and (*b*) any fish in excess of the percentages set out in Annex III[2] to this Convention, of the species set out in Annex III[3] to this Convention, which may be captured by such instruments and which are of less than the minimum sizes prescribed in Annex II to this Convention shall be returned to the sea immediately after capture.

Article 7

(1) No vessel while operating shall use any device by means of which the mesh in any part of a fishing net to which Article 5 of this Convention applies is obstructed or otherwise in effect diminished.

(2) Notwithstanding the provisions of the foregoing paragraph, it shall not be deemed to be unlawful to attach to the underside of the cod-end of a trawl net any canvas, netting, or other material, for the purpose of preventing or reducing wear and tear.

Article 8

Subject to the provisions of Annex III to this Convention, no vessel shall retain on board any sea fish of the descriptions set out in Annex II to this Convention, of a less size than the size prescribed therein for each fish, and all such fish shall be returned immediately to the sea ; provided that they may be retained on board for the purpose of transplantation to other fishing grounds.

Article 9

Subject to the provisions of Annex III to this Convention, each Contracting Government undertakes to prohibit by regulations the landing, sale, exposure or offer for sale, in its territories of any sea fish of the descriptions set out in Annex 11 to this Convention which are of a less size than the size prescribed therein for each fish and have been caught in the waters defined in Article I of this Convention, whether such fish are whole or have had their heads or any other part removed.

Article 10

The provisions of this Convention shall not apply to fishing operations conducted for the purposes of scientific investigation, or to fish taken in the course of such operations, but fish so taken shall not be sold, or exposed or offered for sale in contravention of the provisions of Article 9.

Article 11

The Contracting Governments agree to take, in their territories and in regard to their vessels, to which this Convention applies, appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions of the said provisions.

PART III.—CONSTITUTION OF PERMANENT COMMISSION

Article 12

(1) The Contracting Governments undertake to set up a permanent Commission to which each of them shall appoint one or if they so desire two delegates.

(2) The Commission shall elect its own President either from among the delegates or from independent nominees. If a delegate has been elected President he shall forthwith cease to be the delegate of his Government and that Government shall have the right to appoint another person to serve as its delegate.

(3) The Commission shall draw up its own rules of procedure including provisions for the term of office of the President and the election of subsequent Presidents and such rules may be altered or amended from time to time by a majority of the delegates of Contracting Governments who are present and vote. Only in the case of an even division of votes on any such matter shall the President have a casting vote and it shall be decisive.

(4) For the purpose of voting on all matters within the scope of this article each Contracting Government shall possess one vote, whether it has appointed one delegate or two, but the vote may be exercised by either delegate.

(5) It shall be the duty of this Commission to consider whether the provisions of this Convention should be extended or altered. For this purpose the Commission shall where practicable consult the International Council for the Exploration of the Sea.

(6) The Government of the United Kingdom of Great Britain and Northern Ireland undertakes to call the first meeting of this Commission in the United Kingdom within two years from the coming into force of this Convention, and to call subsequent meetings at the request of the President at such time and in such places as the Commission shall decide.

(7) There shall be a meeting of the Commission not less than once in every three years.

(8) The Government of the United Kingdom of Great Britain and Northern Ireland undertakes to communicate the agenda for the first meeting to all other Contracting Governments not less than one month before the date of the meeting.

(9) Reports of the proceedings of the Commission shall be transmitted by the President of the Commission to the Government of the United Kingdom of Great Britain and Northern Ireland, which shall in turn communicate them to all the Governments which have ratified or acceded to this Convention.

(10) The Contracting Governments undertake to give effect to any recommendation of the Commission for the extension or alteration of this Convention which has been carried unanimously at a meeting of the Commission and accepted by all Contracting Governments not represented at the meeting.

Article 13

(1) For the purposes of this Convention the expression "vessel" means :

(*a*) any vessel or boat employed in fishing for sea fish or in the treatment of sea fish ; or

(*b*) any vessel or boat used partly or wholly for the purpose of the transport of sea fish registered or owned in the territories of any Contracting Government.

(2) The expression "territories" denotes in relation to any Contracting Government :

(*a*) its metropolitan territory ;

(*b*) any territory in respect of which action has been taken by the Contracting Government under Article 16 ; and

(*c*) the waters where the Contracting Government has exclusive jurisdiction over fisheries.

Article 14

This Convention shall be ratified as soon as possible and shall come into force two months after the deposit of instruments of ratification by all the Governments which have signed the Convention, or upon such earlier date as may be agreed between any Governments which may ratify or accede to it under Article 15 in respect of those Governments.

Article 15

(1) Any Government (other than the Government of a territory to which Article 16 applies) which has not signed this Convention may accede thereto at any time after it has come into force in accordance with Article 14. Accession shall be affected by means of a notification in writing addressed to the Government of the United Kingdom of Great Britain and Northern Ireland, and shall take effect immediately after the date of its receipt.

(2) The Government of the United Kingdom will inform all the Governments which have signed or acceded to the present Convention of all accessions received and the date of their receipt.

PART IV.—GENERAL

Article 16

(1) A Contracting Government may, at the time of signature, ratification, accession or thereafter, by a declaration in writing addressed to the Government of the United Kingdom of Great Britain and Northern Ireland, declare its desire that the present Convention shall apply to all or any of its colonies, overseas territories, protectorates or territories under mandate or trusteeship, and this Convention shall apply to all the territories named in such declaration, and to vessels registered or owned therein three months after the receipt of the declaration by the Government of the United Kingdom.

(2) In the absence of such declaration, the Convention shall not apply to any such territory.

(3) A Contracting Government may at any time, by a notification in writing addressed to the Government of the United Kingdom, express its desire that the present Convention shall cease to apply to all or any of its colonies, overseas territories, protectorates or territories under mandate or trusteeship, to which the present Convention shall have been made applicable under the provisions of paragraph (1) of this article, and the Convention shall cease to apply to the territories named in the notification and to vessels registered or owned therein three months after the receipt of the notification by the Government of the United Kingdom.

(4) The Government of the United Kingdom will inform all the Governments which have signed or acceded to the present Convention of any declaration or notification received under paragraphs (1) and (3) of this article, stating in each case the date from which the present Convention has become or will cease to be applicable to the territory or territories specified in the declaration or notification, as the case may be.

Article 17

As from the date of the coming into force of this Convention, the provisions of the International Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, signed in London on the 23rd March, 1937,[1] shall, as far as they have been or are applied by any Contracting Government which was a party to that Convention, be replaced by the provisions of this Convention.

Article 18

After the expiration of three years from the date of its coming into force in accordance with Article 14, this Convention may be denounced by means of a notification in writing addressed to the Government of the United Kingdom of Great Britain and Northern Ireland. The denunciation shall take effect in respect of the Government by which it is made three months after the date of its receipt, and will be notified to the Contracting Governments by the Government of the United Kingdom.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Convention.

DONE in London the 5th day of April, 1946, in a single copy in the English language. A French text of the Convention shall be prepared and after approval by all the signatory Governments shall be regarded as being of equal validity to the English text. Both texts of the Convention shall thereupon be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland.

Certified copies of the Convention shall be communicated to the signatory and acceding Governments.

For the Government of Belgium :
CARLIER

For the Government of Denmark :
P. F. ERICHSEN

For the Government of Eire :
J. D. RUSH

For the Government of France :
Pierre TISSIER

For the Government of Iceland :
Stefan THORVARDSSON
Arni FRIDRIKSSON
Ad referendum

For the Government of the Netherlands :
D. J. VAN DIJK
Dr. B. HAVINGA
G. P. BAERENDS

For the Government of Norway :
Jens BULL

For the Government of Poland :
Kaz. PETRUSEWICZ

For the Government of Portugal :
João VAZ M. D'AZEVEDO E SILVA

For the Government of Spain :
José Miguel RUIZ MORALES

For the Government of Sweden :
N. E. IHRE
Nils ROSÉN

For the Government of the United Kingdom of Great Britain and Northern Ireland :
A. T. A. DOBSON
J. E. DE WATTEVILLE

[1] De Martens, *Nouveau Recueil général de Traités*, troisième série, tome XXXVIII, troisième livraison, p. 822.

ANNEX I

(1) In all waters covered by the Convention, as defined in Article I and Article 4, except as provided in paragraph (2) below, the minimum size of mesh for nets referred to in Article 5 shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 80 mm. broad and 2 mm. thick shall pass through it easily when the net is wet; except that during the period from the 5th day of April. 1954, to the 4th day of April, 1957, a minimum mesh of 75 mm. shall be permitted ; and except that, in the case of seine nets, the minimum size of mesh shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 70 mm. broad and 2 mm. thick shall pass through it easily when the net is wet.

(2) In the waters situated north of 66 degrees north latitude and east of the meridian of Greenwich and in Icelandic waters between the parallels of 68 degrees and 62 degrees north latitude and between the meridians of 28 degrees and 10 degrees west longitude, the minimum size of mesh for nets referred to in Article 5 shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 110 mm. broad and 2 mm. thick shall pass through it easily when the net is wet ; except that, in the case of seine nets, the minimum size of mesh shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 100 mm. broad and 2 mm. thick shall pass through it easily when the net is wet.

ANNEX II

The fish to which Articles 6, 8 and 9 of this Convention apply and the sizes below which such fish may not be retained on board, landed, or sold and exposed or offered for sale are as follows :

Fish	*Size limit for whole Fish measured from tip of snout to extreme end of tail fin* *Cm.*
Cod *(Gadus callarias)*	30
Haddock *(Gadus aeglefinus)*	27
Hake *(Merluccius merluccius)*	30
Plaice *(Pleuronectes platessa)*	25
Witches *(Glyptocephalus cynoglossus)*	28
Lemon soles *(Microstomus kitt)*	25
Soles *(Solea solea)*	24
Turbot *(Scophthalmus maximus)*	30
Brill *(Scophthalmus rhombus)*	30
Megrims *(Lepidorhombus whiff)*	25
Whitings *(Gadus merlangus)*	20
Dabs *(Pleuronectes limanda)*	20

ANNEX III

In the fisheries set out in Article 6 of this Convention, 10 per cent by weight of each total landing or part thereof which is not intended for human consumption in the form of fish, may consist of undersized fish of the species set out in Annex II to this Convention,

Amendments to the Convention for the regulation of the meshes of fishing nets and the size limits of fish of 5 April 1946, Hamburg, 1962

Done at Hamburg 11 May 1962

Entered into force 11 May 1962

Depositary: United Kingdom

Primary source citation: United Nations Treaty Series

CONVENTION FOR THE REGULATION OF THE MESHES OF FISHING NETS AND THE SIZE LIMITS OF FISH. SIGNED AT LONDON, ON 5 APRIL 1946

AMENDMENTS TO THE ABOVE-MENTIONED CONVENTION. ADOPTED AT THE TENTH MEETING OF THE PERMANENT COMMISSION HELD AT HAMBURG FROM 8 TO 11 MAY 1962

Official texts : English and French,
Registered by the United Kingdom of Great Britain and Northern Ireland on 14 March 1963.

(1) The following proviso was added to Article 6 of the Convention :

"and (c) provided that in the period from 1st June, 1963 in 1st June, 1966 no nets having in the cod-end meshes of dimensions between 50 mm. (irrespective of material used) and the minimum sizes specified in paragraph 1 of Annex I shall be carried or used by vessels in the waters of that part of the Convention area defined in that paragraph, except—

(i) those waters to the south and west of the following lines : a line drawn due west from the Mull of Galloway along 54°38′ north latitude, and a line drawn from France to England along 2° west longitude ;

(ii) those waters east of a line drawn from Hanstholm to Lindesnes."

(2) The provisions of paragraph 2 of Article 7 of the Convention were extended to 1st June, 1963.

(3) Annex I of the Convention was amended by the substitution in lines 6 and 7 of paragraph (1) of "1st day of June 1964" for "4th day of April 1963".

(4) Annex II of the Convention was amended by the substitution of "23" for "20" opposite "Whitings (Gadus merlangus)", and the following proviso was added :

"provided that in any waters in which at any time a minimum size of mesh of nets of 120 mm is specified the sizes below which cod and haddock may not be retained on board or landed shall be 34 cm and 31 cm respectively."

(5) Annex III of the Convention was prefaced by the words : "Until 1st June 1966" and the following sentence was added:

"For the purpose of this Annex whiting between 20 cm and 23 cm in length shall not be treated as undersized."

(6) Annex IV of the Convention was amended by the substitution of "three" for "two" and "1964" for "1963".

Agreement relating to the International Convention for Regulating the Police of the North Sea Fisheries signed at The Hague on 6 May 1882, The Hague, 1955

Done at The Hague 3 June 1955

Entered into force 20 June 1958

Depositary: The Netherlands

Primary source citation: United Nations Treaty Series

AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY, BELGIUM, DENMARK, FRANCE, THE NETHERLANDS AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND RELATING TO THE INTERNATIONAL CONVENTION FOR REGULATING THE POLICE OF THE NORTH SEA FISHERIES SIGNED AT THE HAGUE ON 6 MAY 1882. SIGNED AT THE HAGUE, ON 3 JUNE 1955

The Governments signatory to the present Agreement ;

In order that effect may be given in respect of the Federal Republic of Germany to the International Convention for regulating the police of North Sea fisheries signed at The Hague on May 6, 1882 :

Have agreed as follows :

Article 1

1. The supervision of fisheries pursuant to the International Convention for regulating the police of the North Sea fisheries signed at The Hague on May 6, 1882 shall be exercised by ships belonging to the naval forces of the signatory Governments.

2. If the necessity should arise, these ships may be replaced by other state-owned ships commanded by an officer specially appointed for the purpose by the Government concerned and able to produce his commission on demand.

Article 2

The present Agreement shall be ratified and the instruments of ratification shall be deposited with the Netherlands Ministry of Foreign Affairs, which shall notify all signatory Governments of each such deposit

Article 3

The present Agreement shall come into force on the deposit of the sixth instrument of ratification. The Agreement shall, however, be provisionally applied as from the date of its signature, so far as it is possible to do so under the constitutional systems of the signatory Governments.

IN WITNESS WHEREOF the undersigned, having been duly authorised thereto by their respective Governments, have signed the present Agreement.

DONE at The Hague, 3 June 1955, in the English and French languages, both texts being equally authentic, in a single original, which shall be deposited in the archives of the Government of the Netherlands, which shall transmit certified copies thereof to each signatory Government.

For the Federal Republic of Germany :[1]
(*Signed*) H. MÜHLENFELD

For Belgium :
(*Signed*) L. COUVREUR

For Denmark :
(*Signed*) Wilhelm EICKHOFF

For France :
(*Signed*) J. P. GARNIER

For the Netherlands :
(*Signed*) J. W. BEYEN
(*Signed*) J. LUNS

For the United Kingdom of Great Britain and Northern Ireland :
(*Signed*) Paul MASON

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[1] On 21 April 1955, a declaration was made by the Ambassador of the Federal Republic of Germany to the Netherlands, the text of which reads as follows :

BOTSCHAFT DER BUNDESREPUBLIK DEUTSCHLAND
DEN HAAG*

ADDITIONAL DECLARATION

I have been ordered by my Government to give the following declaration on the occasion of the signing of the Agreement relating to the International Convention for Regulating the Police of the North Sea Fisheries signed at the Hague on May 6th, 1882 :

1) The term "officer" shall not be understood in the military sense, but in the sense of ship's officer (cf. the definition of the term in paragraph 2 of the seaman's code) or, respectively, of "captain in charge of a vessel".
2) Article 3, para 1, sentence 2, shall apply to the Federal Republic only from the date of ratification.

The Hague, April 21st, 1955.

(*Signed*) H. MÜHLENFELD

* Embassy of the Federal Republic of Germany.
The Hague.

Fisheries Convention (with annexes), London, 1964

Done at London 9 March 1964

Entered into force 15 March 1966

Depositary: United Kingdom

Primary source citation: United Nations Treaty Series

FISHERIES CONVENTION DONE AT LONDON, ON 9 MARCH 1964

The Governments of Austria, Belgium, Denmark, the French Republic, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland,

Desiring to define a régime of fisheries of a permanent character ;

Have agreed as follows :

Article 1

(1) Each Contracting Party recognizes the right of any other Contracting Party to establish the fishery régime described in Articles 2 to 6 of the present Convention.

(2) Each Contracting Party retains however the right to maintain the fishery régime which it applies at the date on which the present Convention is opened for signature, if this régime is more favourable to the fishing of other countries than the régime described in Articles 2 to 6.

Article 2

The coastal State has the exclusive right to fish and exclusive jurisdiction in matters of fisheries within the belt of six miles measured from the baseline of its territorial sea.

Article 3

Within the belt between six and twelve miles measured from the baseline of the territorial sea, the right to fish shall be exercised only by the coastal State and by such other Contracting Parties, the fishing vessels of which have habitually fished in that belt between 1st January, 1953 and 31st December 1962.

Article 4

Fishing vessels of the Contracting Parties, other than the coastal State, permitted to fish under Article 3, shall not direct their fishing effort towards stocks of fish or fishing grounds substantially different from those which they have habitually exploited. The coastal State may enforce this rule.

Article 5

(1) Within the belt mentioned in Article 3 the coastal State has the power to regulate the fisheries and to enforce such regulations, including regulations to give effect to internationally agreed measures of conservation, provided that there shall be no discrimination in form or in fact against fishing vessels of other Contracting Parties fishing in conformity with Articles 3 and 4.

(2) Before issuing regulations, the coastal State shall inform the other Contracting Parties concerned and consult those Contracting Parties, if they so wish.

Article 6

Any straight baseline or bay closing line which a Contracting Party may draw shall be in accordance with the rules of general international law and in particular with the provisions of the Convention on the Territorial Sea and the Contiguous Zone opened for signature at Geneva on 29th April, 1958.

Article 7

Where the coasts of two Contracting Parties are opposite or adjacent to each other, neither of these Contracting Parties is entitled, failing agreement between them to the contrary, to establish a fisheries régime beyond the median line, every point of which is equidistant from the nearest points on the low water lines of the coasts of the Contracting Parties concerned.

Article 8

(1) Once a Contracting Party applies the régime described in Articles 2 to 6, any right to fish which it may thereafter grant to a State not a Contracting Party shall extend automatically to the other Contracting Parties, whether or not they could claim this right by virtue of habitual fishing, to the extent that the State not a Contracting Party avails itself effectively and habitually of that right.

(2) If a Contracting Party which has established the régime described in Articles 2 to 6 should grant to another Contracting Party any right to fish which the latter cannot claim under Articles 3 and 4, the same right shall extend automatically to all other Contracting Parties.

Article 9

(1) In order to allow fishermen of other Contracting Parties, who have habitually fished in the belt provided for in Article 2 to adapt themselves to their exclusion from that belt, a Contracting Party which establishes the régime provided for in Articles 2 to 6, shall grant to such fishermen the right to fish in that belt for a transitional period, to be determined by agreement between the Contracting Parties concerned.

(2) If a Contracting Party establishes the régime described in Articles 2 to 6, it may, notwithstanding the provisions of Article 2, continue to accord the right to fish in the whole or part of the belt provided for in Article 2 to other Contracting Parties of which the fishermen have habitually fished in the area by reason of voisinage arrangements.

Article 10

Nothing in the present Convention shall prevent the maintenance or establishment of a special régime in matters of fisheries :

(*a*) as between States Members and Associated States of the European Economic Community,

(*b*) as between States Members of the Benelux Economic Union,

(*c*) as between Denmark, Norway and Sweden,

(*d*) as between France and the United Kingdom of Great Britain and Northern Ireland in respect of Granville Bay and the Minquiers and the Ecrehos,

(*e*) as between Spain, Portugal and their respective neighbouring countries in Africa,

(*f*) in the Skagerrak and the Kattegat.

Article 11

Subject to the approval of the other Contracting Parties, a coastal State may exclude particular areas from the full application of Articles 3 and 4 in order to give preference to the local population if it is overwhelmingly dependent upon coastal fisheries.

Article 12

The present Convention applies to the waters adjacent to the coasts of the Contracting Parties listed in Annex I. This Annex may be amended with the consent of the Governments of the Contracting Parties. Any proposal for amendment shall be sent to the Government of the United Kingdom of Great Britain and Northern Ireland which shall notify it to all Contracting Parties, and inform them of the date on which it enters into force.

Article 13

Unless the parties agree to seek a solution by another method of peaceful settlement, any dispute which may arise between Contracting Parties concerning the interpretation or application of the present Convention shall at the request of any of the parties be submitted to arbitration in accordance with the provisions of Annex II to the present Convention.

Article 14

(1) The present Convention shall be open for signature from 9th March, 1964 to 10th April, 1964. It shall be subject to ratification or approval by the signatory Governments, in accordance with their respective constitutional procedures. The instruments of ratification or approval shall be deposited as soon as possible with the Government of the United Kingdom of Great Britain and Northern Ireland.

(2) The present Convention shall enter into force upon the deposit of instruments of ratification or approval by eight signatory Governments. If, however, on 1st January, 1966, this condition is not fulfilled, those Governments which have deposited their instruments of ratification or approval may agree by special protocol on the date on which the Convention shall enter into force. In either case the Convention shall enter into force with respect to any Government that ratifies or approves thereafter on the date of deposit of its instrument of ratification or approval.

(3) Any State may at any time after the Convention has come into force accede thereto upon such conditions as may be agreed by it with the Contracting Parties. Accession on the conditions agreed shall be effected by notice in writing addressed to the Government of the United Kingdom of Great Britain and Northern Ireland.

(4) The Government of the United Kingdom of Great Britain and Northern Ireland shall inform all signatory and acceding Governments of all instruments of ratification or approval deposited and accessions received and shall notify signatory and acceding Governments of the dates on which and the Governments in respect of which the present Convention enters into force.

Article 15

The present Convention shall be of unlimited duration However at any time after the expiration of a period of twenty years from the initial entry into force of the present Convention, any Contracting Party may denounce the Convention by giving two years' notice in writing to the Government of the United Kingdom of Great Britain and Northern Ireland. The latter shall notify the denunciation to the Contracting Parties.

ANNEX I

The coasts of the Contracting Parties to which the Convention applies are the following :

Belgium
All coasts

Denmark
The coasts of the North Sea, the Skagerrak and the Kattegat (i e. the area lying to the north and west of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbierg, and from Gilbierg Head to the Kullen)

France
The North Sea and the English Channel coasts and the European Atlantic coasts.

Federal Republic of Germany
The North Sea coast

Ireland
All coasts

Netherlands
The North Sea coast

Portugal
The Atlantic coast, north of the 36th Parallel, and the coast of Madeira.

Spain
The Atlantic coast, north of the 36th Parallel

Sweden
The west coast, north of a line drawn from the Kullen to Gilbierg Head.

United Kingdom of Great Britain and Northern Ireland
All coasts, including those of the Isle of Man and The Channel Islands.

ANNEX II

ARBITRATION

Article I

(1) Within three months of the signature of the Convention, or of accession thereto, each signatory or acceding Government shall nominate five persons prepared to undertake the duties of arbiters and being nationals of a Member State of the Organisation for Economic Co-operation and Development.

(2) The persons thus nominated shall be included in a list, which shall be notified by the Government of the United Kingdom of Great Britain and Northern Ireland to all signatory and acceding Governments

(3) Any change in the list of arbiters shall be notified in the same manner.

(4) The same person may be nominated by more than one Government.

(5) The arbiters shall be nominated for a term of six years, which may be renewed.

(6) In the event of death or resignation of an arbiter he shall be replaced in the manner fixed for his nomination and for a new period of six years.

Article 2

(1) The party requesting arbitration in accordance with this Annex shall inform the other party of the claim which it intends to submit to arbitration, and give a summary statement of the grounds on which such claim is based.

(2) The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The other three arbiters, including the President, shall be chosen by agreement between the parties from among the nationals of third States whose names appear in the list mentioned in Article 1

Article 3

If the nomination of the members of the Arbitral Tribunal is not made within a period of one month from the date on which arbitration was first requested, the task of making the necessary nominations shall be entrusted to the President of the International Court of Justice Should the latter be a national of one of the parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next senior judge of the Court who is not a national of the parties.

Article 4

The arbiters to be nominated by the President of the International Court of Justice shall be chosen from among the nationals of the States Members of the Organisation for Economic Co-operation and Development and preferably from the list provided for in Article 1. The President of the International Court of Justice shall consult beforehand the parties to the dispute, and may consult the Director General of the Food and Agriculture Organisation of the United Nations and the President of the International Council for the Exploration of the Sea. The arbiters shall be of different nationalities.

Article 5

The parties may draw up a special agreement determining the subject of the dispute and the details of procedure

Article 6

In the absence of sufficient particulars in a special agreement or in the present Annex regarding the questions mentioned in Article 5 of the present Annex, the provisions of Articles 59-82 of the Hague Convention for the Pacific Settlement of International Disputes of 18th October, 1907 shall apply as far as possible.

Article 7

The parties shall facilitate the work of the Arbitral Tribunal, and in particular shall supply it to the greatest possible extent with all relevant documents and information. They shall use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

Article 8

In the absence of agreement to the contrary between the parties, the decisions of the Arbitral Tribunal, shall be taken by majority vote and, except in relation to questions of procedure, decisions shall be valid only if all members are present. The voting shall not be disclosed, nor any dissenting or separate opinions

Article 9

(1) During the proceedings, each member of the Arbitral Tribunal shall receive emoluments, the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

(2) The expenses of the Arbitral Tribunal shall be divided in the same manner.

Article 10

The validity of legal measures which entered into force before the date on which the Convention was opened for signature shall not be questioned in proceedings before the Arbitral Tribunal

Article 11

(1) In the case of a dispute based on an allegation of injury to private interests which, according to the municipal law of one of the parties, fans within the competence of its judicial administrative authorities, the party in question may object to the dispute being submitted for settlement by the procedure laid down in this Annex until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

(2) If a decision with final effect has been pronounced in the State concerned, it will no longer be possible to resort to the procedure laid down in this Annex after the expiration of a period of five years from the date of the aforementioned decision

Article 12

If the execution of an award of the Arbitral Tribunal would conflict with a judgment or measure enjoined by a court of law or other authority of one of the parties to the dispute, and if the municipal law of that party does not permit, or only partially permits, the consequences of the judgment or measure in question to be annulled, the Arbitral Tribunal shall, if necessary, grant the injured party equitable satisfaction.

Article 13

(1) In all cases where a dispute forms the subject of arbitration, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Arbitral Tribunal shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures

(2) The parties shall abstain from all measures likely to react prejudicially upon the execution of the award of the Arbitral Tribunal and, in general, shall abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 14

(1) As soon as the Arbitral Tribunal is constituted, the President shall inform the Contracting Parties of the dispute submitted to it.

(2) Any Contracting Party may intervene, within a month from the date of receipt of this notification if it establishes a legitimate interest in the settlement of the dispute. Intervention shall be with the sole object of supporting or contesting the contentions, or part of the contentions, of the original parties to the dispute An intervention shall not lead to modification of the original composition of the Arbitral Tribunal.

Article 15

Each of the Contracting Parties shall comply with the award of the Arbitral Tribunal in any dispute to which it is a party

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Convention.

DONE at London this ninth day of March, 1964, in the English and French languages, each text being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit a certified true copy thereof to each signatory and acceding Government.

For the Government of Austria :
Pour le Gouvernement de l'Autriche :

For the Government of Belgium :
Pour le Gouvernement de la Belgique :

J. DE THIER

For the Government of Denmark :
Pour le Gouvernement du Danemark :

Nils SVENNINGSEN

For the Government of the French Republic :
Pour le Gouvernement de la République Française :

G. DE COURCEL

For the Government of the Federal Republic of Germany :
Pour le Gouvernement de la République fédérale d'Allemagne :

Hasso VON ETZDORF

For the Government of Ireland :
Pour le Gouvernement de l'Irlande :

Seán F. LEMASS

For the Government of Italy :
Pour le Gouvernement de l'Italie :

P. QUARONI

For the Government of Luxembourg :
Pour le Gouvernement du Luxembourg :

A. J. CLASEN

For the Government of the Netherlands :
Pour le Gouvernement des Pays-Bas :

C. W. VAN BOETZELAER

For the Government of Portugal :
Pour le Gouvernement du Portugal :

Humberto ALVES MORGADO

For the Government of Spain :
Pour le Gouvernement de l'Espagne :

SANTA CRUZ

For the Government of Sweden :
Pour le Gouvernement de la Suède :

Gunnar HÄGGLÖF

For the Government of the United Kingdom of Great Britain and Northern Ireland :
Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :

R. A. BUTLER

Protocol of Provisional Application of the Fisheries Convention (with annexes) of 9 March 1964, London, 1964

Done at London 9 March 1964

Entered into force 15 March 1966

Depositary: United Kingdom

Primary source citation: United Nations Treaty Series

The Governments of Austria, Belgium, Denmark, the French Republic, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland,

Have agreed as follows :

Article 1

The Contracting Parties will raise no objection if a Government which has ratified or approved the Fisheries Convention opened for signature at London on 9th March, 1964, applies provisionally the provisions of the Convention, having first notified its decision to the Government of the United Kingdom of Great Britain and Northern Ireland.

Article 2

(1) The provisional application of the provisions of the Fisheries Convention by a Contracting Party will entail the establishment of the list of arbiters provided for in Article 1 of Annex II to the Convention.

(2) A Contracting Party which has provisionally applied the provisions of the Convention shall be bound by its provisions, in particular Article 13, and shall not object if they are invoked by a Government which has signed the present Protocol and the Convention, even if the latter Government has not yet ratified or approved the Convention, with a view to settling a dispute raised by this provisional application.

Article 3

The present Protocol shall be open for signature from 9th March, 1964 to 10th April, 1964. It shall enter into force, when it has been signed by two Governments as between those Governments, and in respect of any Government which signs it thereafter on the date of signature by that Government.

Article 4

(1) Upon the entry into force of the Convention, the present Protocol shall automatically cease to have effect as between Governments which have become parties to the Convention.

(2) The present Protocol shall cease to have effect in respect of any Government which notifies the Government of the United Kingdom of Great Britain and Northern Ireland of its decision not to ratify or approve the Convention.

Article 5

The Government of the United Kingdom of Great Britain and Northern Ireland shall immediately inform all the signatories of the present Protocol of each notification received in accordance with Article 1 or with paragraph (2) of Article 4.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Protocol.

DONE at London this ninth day of March, 1964, in the English and French languages, each text being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit a certified true copy thereof to each signatory and acceding Government.

For the Government of Austria :

Pour le Gouvernement de l'Autriche :

For the Government of Belgium .[1]

J. DE THIER

Pour le Gouvernement de la Belgique[1] :

For the Government of Denmark .[2]

Nils SVENNINGSEN

Pour le Gouvernement du Danemark[2].

For the Government of the French Republic :[3]

G. DE COURCEL

Pour le Gouvernement de la République Française[3] :

For the Government of the Federal Republic of Germany :[4]

Hasso VON ETZDORF

Pour le Gouvernement de la République fédérale d'Allemagne [4] :

For the Government of Ireland :[5]

Seán F. LEMASS

Pour le Gouvernement de l'Irlande[5] :

For the Government of Italy :[6]

P. QUARONI

Pour le Gouvernement de l'Italie[6] :

For the Government of Luxembourg :[7]

A. J. CLASEN

Pour le Gouvernement du Luxembourg[7] :

For the Government of the Netherlands :[1]

C. W. VAN BOETZELAER

Pour le Gouvernement des Pays-Bas[1] :

For the Government of Portugal :[2]

Humberto ALVES MORGADO

Pour le Gouvernement du Portugal[2].

For the Government of Spain :[3]

SANTA CRUZ

Pour le Gouvernement de l'Espagne[3] :

For the Government of Sweden :[4]

Gunnar HÄGGLÖF

Pour le Gouvernement de la Suède[4] :

For the Government of the United Kingdom of Great Britain and Northern Ireland :[5]

R. A. BUTLER

Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord[5] :

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[1] Signature affixed April 1, 1964.
[2] Signature affixed March 31, 1964
[3] Signature affixed April 10, 1964
[4] Signature affixed April 9, 1964
[5] Signature affixed March 18, 1964.
[6] Signature affixed April 10, 1964
[7] Signature affixed April 10, 1964
[1] Signature affixed April 7, 1964.
[2] Signature affixed April 7, 1964
[3] Signature affixed April 8, 1964
[4] Signature affixed April 8, 1964
[5] Signature affixed March 9, 1964.

[1] Signature apposée le 1er avril 1964
[2] Signature apposée le 31 mars 1964.
[3] Signature apposée le 10 avril 1964.
[4] Signature apposée le 9 avril 1964
[5] Signature apposée le 18 mars 1964
[6] Signature apposée le 10 avril 1964.
[7] Signature apposée le 10 avril 1964
[1] Signature apposée le 7 avril 1964
[2] Signature apposée le 7 avril 1964
[3] Signature apposée le 8 avril 1964
[4] Signature apposée le 8 avril 1964
[5] Signature apposée le 9 mars 1964

Agreement establishing the Southeast Asian Fisheries Development Center, Bangkok, 1967

Done at Bangkok 28 December 1967

Entered into force 28 December 1967

Depositary: Thailand

Primary source citation: United Nations Treaty Series

AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA, THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE, THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM ESTABLISHING THE SOUTHEAST ASIAN FISHERIES DEVELOPMENT CENTER. DONE AT BANGKOK, ON 28 DECEMBER 1967

The Contracting Governments,

Recognizing the vital importance of promoting the fisheries development in Southeast Asia in the light of the urgent need of increasing the food supply and of improving the nutritional standard, especially of increasing the supply of animal protein, in this region;

Realizing that, in order to promote the fisheries development in this region, further efforts should be made in the fields of training of fisheries technicians, research on fisheries techniques and investigation of fisheries resources and in other relevant fields; and

Convinced that regional co-operation is highly effective in such fields;

Have agreed to establish hereby the Southeast Asian Fisheries Development Center, hereinafter called the " Center ", which shall operate in accordance with the following provisions :

CHAPTER I
PURPOSE AND FUNCTIONS

Article 1

PURPOSE

The purpose of the Center is to contribute to the promotion of the fisheries development in Southeast Asia by mutual co-operation among the member governments of the Center, hereinafter called the " Members ", and through collaboration with international organizations and governments external to the Center.

Article 2

FUNCTIONS

To fulfil its purpose, the Center shall have the following functions :

(i) to train fisheries technicians of the Southeast Asian countries;

(ii) to study such fisheries techniques as are suited to the fisheries in Southeast Asia;

(iii) to develop fishing grounds and to conduct investigation of fisheries resources and research in fisheries oceanography in Southeast Asia;

(iv) to collect and analyse information related to the fisheries in Southeast Asia;

(v) to provide the Members with the results of studies and researches by the Center and other information; and

(vi) to handle the other matters related to the functions referred to in (i) to (v) of this Article.

CHAPTER II
MEMBERSHIP

Article 3

MEMBERSHIP

1. Membership in the Center shall be open to the governments of the Southeast Asian countries and Japan. For the purpose of this Agreement, the term " Southeast Asian countries " shall refer to the Union of Burma, the Kingdom of Cambodia, the Republic of Indonesia, the Kingdom of Laos, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Republic of Viet-Nam.

2. Governments eligible for membership under paragraph 1 of this Article which do not sign within the period specified in Article 14 of this Agreement may be admitted to membership in the Center by a two-thirds majority vote of the total number of Directors of the Council.

CHAPTER III
ORGANIZATION

Article 4

ORGANS OF CENTER

The Center shall have a Council, a Secretariat and such Departments as may be decided upon by the Council.

Article 5

COMPOSITION OF COUNCIL

1. Each Member shall be represented on the Council by one Director. Directors shall hold office until their successors shall be appointed.

2. Each Member may appoint an Alternate Director who shall exercise all the powers of its Director in his absence.

3. Each Member shall pay due regard to the desirability of appointing as its Director a high level official who has sufficient knowledge and experience in the field of fisheries development.

4. At its annual meeting, the Council shall designate one of the Directors as Chairman, who shall hold office until the election of the next Chairman at the next annual meeting of the Council.

Article 6

POWERS OF COUNCIL

1. The Council shall be the supreme organ of the Center and all the powers of the Center shall be vested in the Council.

2. The Council may delegate to the Secretary-General any or all of its powers, except the powers :

(i) to decide on the Plan of Operation and the Working Programme concerning the establishment and the operation of the Departments of the Center;

(ii) to adopt the annual programme and the annual budget of revenues and expenditures of the Center;

(iii) to approve the annual report on the operation of the Center;

(iv) to admit new Members;

(v) to appoint the Secretary-General and the Deputy Secretary-General;

(vi) to appoint the Department-Chiefs and the Deputy Department-Chiefs;

(vii) to approve agreements or arrangements referred to in Article 12 of this Agreement;

(viii) to decide to receive assistance referred to in Article 13 of this Agreement;

(ix) to adopt amendments of this Agreement in accordance with the provisions of Article 18; and

(x) to decide on the manner in which the property and assets of the Center shall be disposed of in case of the abolishment of any department.

Article 7

PROCEDURE OF COUNCIL

1. The Council shall hold an annual meeting and such other meeting as may be decided by the Council or called by the Secretary-General. A meeting of the Council shall be called by the Secretary-General whenever requested by a majority of the Members. The inaugural meeting of the Council shall be called by the Government of Thailand.

2. Each Director shall have one vote and, except as otherwise provided in this Agreement, all matters before the Council shall be decided by a majority of the Members present and voting.

3. Notwithstanding paragraph 2 of this Article, the Plan of Operation and the Working Programme referred to in Article 6 paragraph 2 (i) and the manner of disposal referred to in Article 6 paragraph 2 (x) of this Agreement shall be decided by a unanimous vote of the total number of the Directors of the Council.

4. A quorum for any meeting of the Council shall be a majority of the Directors.

5. The Council may, by regulation, establish a procedure whereby the Chairman of the Council may, when the latter deems such action advisable, obtain a vote of the Directors on a specific question without calling a meeting of the Council.

Article 8

COMPOSITION OF SECRETARIAT

1. The Secretariat shall consist of a Secretary-General, a Deputy Secretary-General and Secretariat staff.

2. The term of office of the Secretary-General and the Deputy Secretary-General shall be two years and they may be re-appointed.

3. The Secretary-General and the Deputy Secretary-General shall be concurrently the Chief and the Deputy Chief of one of the Departments.

4. The Secretariat staff shall be appointed by the Secretary-General.

5. During the Secretary-General's absence or inability to act or during any vacancy of the office of the Secretary-General, the Deputy Secretary-General shall act as Secretary-General.

Article 9

SECRETARY-GENERAL

1. The Secretary-General shall assist the Council, to which he shall be responsible, and, for this purpose, shall, in addition to the powers assigned to him expressly by this Agreement, exercise all the powers delegated to him by the Council.

2. The Secretary-General shall represent the Center.

Article 10

DEPARTMENT

1. Each Department shall consist of a Department-Chief, a Deputy Department-Chief and Department staff.

2. The Department-Chief shall be appointed by the Council upon the recommendation of the government of the member country in whose territory the Department is located and the Deputy Department-Chief shall be appointed by the Council upon the recommendation of the Government of Japan.

3. The term of office of the Department-Chief and the Deputy Department Chief shall be two years and they may be reappointed.

4. The Department staff shall be appointed by the Department-Chief.

5. The Department-Chief shall conduct the business of the Department in close consultation with the Deputy Department-Chief. During the Department Chief's absence or inability to act or during any vacancy of the office of the Department-Chief, the Deputy Department-Chief shall act as Department Chief.

CHAPTER IV
FINANCE

Article 11

FINANCE

The Members shall provide the Center, in accordance with their respective national laws and regulations and within the limits of their respective annual budgetary appropriations, with an agreed amount of money, movable and immovable property and services necessary for the establishment and the operation of the Center.

CHAPTER V
RELATIONS WITH OTHER ORGANIZATIONS

Article 12

CO-OPERATION WITH OTHER ORGANIZATIONS

In order to fulfil its purpose, the Center may co-operate with governments and organizations external to the Center as well as other international organizations and, for this purpose, may conclude agreements or arrangements with these organizations.

Article 13

ASSITANCE FROM OTHER ORGANIZATIONS

The Center may, by a two-thirds majority vote of the total number of the Directors of the Council, receive assistance from governments and organizations external to the Center as well as other international organizations, provided that no condition contrary to the purpose of the Center is attached to such assistance.

CHAPTER VI
FINAL PROVISIONS

Article 14

SIGNATURE

This Agreement shall remain open for signature by the governments of the countries referred to in Article 3, paragraph 1 of this Agreement on or before 31st December, 1967.

Article 15

ENTRY INTO FORCE

1. This Agreement shall enter into force on the date on which at least three governments have signed this Agreement.

2. For governments signing this Agreement subsequent to the entry into force of this Agreement, it shall enter into force on the date of the signature by such governments.

3. For governments which have been admitted to membership in the Center in accordance with the provisions of Article 3, paragraph 2 of this Agreement, it shall enter into force on the date of the deposit of their instruments of accession with the Depositary Government of this Agreement.

4. The Depositary Government shall inform the governments of the countries referred to in Article 3, paragraph 1 of this Agreement of the entering into force of this Agreement according to the preceding paragraphs of this Article.

Article 16

WITHDRAWAL

1. Any Member may withdraw from this Agreement at any time by written notification given to the Secretary-General, who shall immediately inform the other Members of such notification.

2. Withdrawal by a Member shall become effective on the date specified in its notification but in no event less than three months after the date on which the notification has been received by the Secretary-General.

Article 17

TERM OF VALIDITY

This Agreement shall remain in force for ten years and thereafter until all the Members agree to terminate it.

Article 18

AMENDMENT

Amendments to this Agreement may be proposed to the Council by any Member and shall only be adopted by a unanimous vote of the total number of the Directors of the Countil. Each amendment so adopted shall come into force for all the Members on the date on which it is accepted by all the Members.

Article 19

DEPOSIT

The Original of this Agreement shall be deposited with the Government of Thailand, who shall send certified copies thereof to the governments of the countries referred to in Article 3, paragraph 1 of this Agreement.

IN WITNESS WHEREOF the undersigned representatives being duty authorized thereto by their respective governments, have signed the present Agreement.

DONE at Bangkok, in a single copy in the English language, this twenty-eighth day of December, one thousand nine hundred and sixty-seven.

For the Government of the Union of Burma :

For the Government of the Kingdom of Cambodia :

For the Government of the Republic of Indonesia :

For the Government of Japan :
M. SEKI

For the Government of the Kingdom of Laos :

For the Government of Malaysia :
Tengku NGAH MOHAMED
January 26, 1968

For the Government of the Republic of the Philippines :
F. E. MARCOS
January 16, 1968

For the Government of the Republic of Singapore :
R. H. HO

For the Government of the Kingdom of Thailand :
P. SARASIN

For the Government of the Republic of Viet-Nam :
D. CHINH
January 26, 1968

Protocol amending the Agreement of 28 December 1967 establishing the Southeast Asian Fisheries Development Center, Bangkok, 1968

Done at Bangkok 13 January 1968

Entered into force 13 January 1968

Depositary: Thailand

Primary source citation: United Nations Treaty Series

The Government of Japan, the Government of the Republic of Singapore and the Government of the Kingdom of Thailand,

Having noted that countries in the Southeast Asia are desirous of becoming parties to the Agreement and,

Having considered that at present the proper Organ under the Agreement has not yet been set up to deal with the matter, nevertheless the urgent desire of these countries should be complied with,

Have agreed as follows :

Article I

Article 14 of the Agreement Establishing the Southeast Asian Fisheries Development Center signed at Bangkok on 28 December 1967 shall be replaced by the following :

" Article 14

SIGNATURE

This Agreement shall remain open for signature by the Governments of the countries referred to in Article 3, paragraph 1 of this Agreement until the inaugural meeting of the Council. "

Article II

This Protocol shall enter into force on its date of signature.

IN WITNESS WHEREOF the undersigned representatives being duly authorized thereto by their respective governments, have signed the present Protocol.

DONE at Bangkok in a single copy in the English language, this thirteenth day of January, one thousand nine hundred and sixty-eight.

For the Government of Japan :
M. SEKI

For the Government of the Republic of Singapore :
R. H. HO

For the Government of the Kingdom of Thailand :
P. SARASIN

Arrangement relating to Fisheries in Waters Surrounding the Faeroe Islands (with annexes), Copenhagen, 1973

Done at Copenhagen 18 December 1973

Entered into force 1 January 1974

Depositary: Denmark

Primary source citation: United Nations Treaty Series

The Parties to this Arrangement,

Realizing that the scientific evidence available calls for immediate measures for the purpose of conservation of fish stocks in the Faroe Area (ICES Statistical Division V_b),

Considering the exceptional dependence of the Faroese economy on fisheries, and

Recognizing that the Faroe Islands should enjoy preference in waters surrounding the Faroe Islands,

Have agreed as follows:

Article 1. The fishing for the demersal species cod and haddock in the ICES Statistical Division V_b shall be limited annually as prescribed in the catch limitation scheme annexed hereto (annex I), which shall be an integral part of the present Arrangement.

Article 2. 1. Contracting Parties directing their fisheries in the area solely towards demersal species other than those covered by article I shall not conduct their demersal fisheries in a way significantly different from those of the years 1968 to 1972.

Their annual catches from trawl fisheries shall not exceed by more than 10% the highest figure they have respectively achieved in those years as recorded by the International Council for the Exploration of the Sea.

2. The annual catches of Parties to whom paragraph 1 applies and whose fleets fish solely by line and gillnets in the area, shall not exceed by more than 25% the highest figure achieved over the years 1968 to 1972 as recorded by the International Council for the Exploration of the Sea.

3. Contracting Parties which have not habitually exercised fishing in the area shall limit their annual catches of demersal species mentioned in paragraph 1 to a maximum of 2,000 tons each.

Article 3. 1. The sub-areas identified on the chart and accompanying description annexed hereto (annexes II and IiI) shall be closed for trawl fishing by vessels of all the Contracting Parties annually during the following months:

sub-area 1:
February 15 to May 15

sub-area 2:
June 1 to November 30

sub-area 3:
April 1 to June 30 and
October 1 to December 31

sub-area 4:
December 1 to March 31 and
May 1 to May 31

sub-area 5:
March 1 to March 31.

2. The maximum allowable size in terms of gross register tons of trawlers fishing within the sub-areas mentioned in paragraph 1 shall not exceed the size habitually used before the end of the year 1973.

Article 4. Notwithstanding the provisions in article 3 small Faroese vessels may continue trawl fishing in the sub-areas mentioned in article 3.1. for the following annual quantities of demersal stocks:

In sub-area 2:
1,250 tons

In sub-area 3:
1,250 tons

In sub-area 4:
500 tons.

These quotas form part of the total Faroese quota according to the catch limitation scheme annexed hereto.

Article 5. Nothing in the present Arrangement shall be deemed to prejudice the views of any Contracting Party as to the delimitation and limits in international law of territorial waters, adjacent zones or of jurisdiction in fishery matters.

Article 6. 1. The present Arrangement shall enter into force on January 1, 1974.

2. Any Contracting Party may request a review of the Arrangement.

3. Any Contracting Party may withdraw from the Arrangement by means of a notice in writing addressed to the depository Government who will notify the other Contracting Parties. Any such denunciation shall take effect six months after the date on which such notice is given.

4. This Arrangement shall be deposited with the Government of Denmark by which certified copies shall be transmitted to the Governments of all Contracting Parties.

5. IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Arrangement.

DONE at Copenhagen on the 18th December, 1973.

For Belgiens regering:
Under forbehold af parlamentsgodkendelse
[For the Government of Belgium:
Subject to approval by Parliament][1]
A. LONNOY

For Danmarks regering:
[For the Government of Denmark:]
K. B. ANDERSON
ATLI P. DAM

For Frankrigs regering:
[For the Government of France:]
PIERRE PELEN

For Norges regering:
[For the Government of Norway:]
ARNE SKAUG

For Polens regering:
[For the Government of Poland:]
R. PIETRASZKA

For Det forenede Kongerige Storbritannien og Nordirlands regering:
[For the Government of the United Kingdom of Great Britain and Northern Ireland:]
A. A. STARK

For Forbundsrepublikken Tysklands regering:
[For the Government of the Federal Republic of Germany:]
WERNER AHRENS

ANNEX I

CATCH LIMITATION SCHEME FOR COD AND HADDOCK IN ICES STATISTICAL DIVISION V_b

(Metric tons round fresh weight)

	Cod *Haddock*
Faroes	32,000
UK	18,000
Others	2,000*
TOTAL	52,000**

* The Contracting Parties not mentioned by name in the scheme will use their best endeavours to ensure that their catches including by-catches do not exceed this amount.

** The Contracting Parties will use their best endeavours to ensure that the catches constituting the total quota do not exceed 30,000 tons for cod and 22,000 tons for haddock.

[1] Texts in brackets were translated by the Secretariat—Les textes entre crochets ont été traduits par le Secrétariat.

ANNEX III
IDENTIFICATION OF SUB-AREAS 1 TO 5

Sub-area 1:

8 nautical miles from the limit of fishing zone between a line 0° true from Eidiskoll and a line 90° true from Bispur.

Sub-area 2:

18 nautical miles from the limit of the fishing zone between a line 90° true from Bispur and a line 90° true from Akrabergi.

Sub-area 3:

(*a*) 12 nautical miles from the limit of the fishing zone between a line 150° true from Akrabergi and a line 190° true from Akrabergi, and

(*b*) 6 nautical miles from the limit of the fishing zone between a line 190° true from Akrabergi and a line 240° true from Ørnanípuni.

Sub-area 4:

12 nautical miles from the limit of the fishing zone between a line 240° true from Trøllhøvda and a line 320° true from Barði.

Sub-area 5:

Faroe Bank (ICES Sub-Division V_{b2}) within the 200 m. isobath.

Convention instituting the Latin American Organization for Fisheries Development (OLDEPESCA), Mexico City, 1982

Done at Mexico City 29 October 1982

Entered into force 2 November 1984

Depositary: Peru

Primary source citation: United Nations Treaty Series

The Latin American States duly represented at the meeting convened to establish the Latin American Organization for Fisheries Development;

Considering that, the Action Committee of Sea and Freshwater Products was set up for the purpose of exercising the sovereign rights of each of the Latin American States in order to exploit and properly use their fishery resources, and that its establishment is based on the principles of equality, sovereignty, independence of States, non-intervention in domestic affairs and mutual respect among Member States given the importance of Fisheries in the economies of these countries and the nourishing of their people;

That, it is necessary to encourage the correct use and protection of fishery resources within its maritime jurisdiction zones of each State whilst preserving the marine and freshwater environment and applying rational conservation policies for the same which entails mutual cooperation and the development of joint programs;

That, such an organization harmonizes with the principles stated in the Charter of Economic Rights and Duties of States and the Declaration for the Establishment of a New International Economic Order as well as in other declarations adopted at Conferences held at the initiative of the developing countries;

That the Panama Constitutional Convention of SELA, maintains as one of its principles to support multilateral efforts of regional cooperation, and sets up the Action Committee as temporary operational instruments;

That, SELA Latin American Council through its Resolution Nº 13 established the Action Committee of Sea and Freshwater Products and because of the endeavours of member States significant progress has been made in the field of regional cooperation in Fisheries; and taking into account the success of the Action Committee which made possible the holding of an Annual Ministers' Meeting on Fisheries and that the Action Committee's Meetings and the I and II Ministers' Conference have adopted important agreements convinced of the need to strengthen regional cooperation through the creation of a Permanent Mechanism of Regional Cooperation in view of the proximity of expiration of the Committee, whose incorporation Agreement was subscribed on October 17, 1977;

That Resolutions 7, 65 and 92, the SELA Latin American Council, after evaluating the results obtained by the Action Committee, recommends the prompt creation of a Permanent Organism of Regional Cooperation on Fisheries;

That, the Resolution approved at the Second Ministers' Meeting held in Guayaquil, Ecuador, on October, 1981, agreed to constitute the Latin American Organization for Fisheries Development as a permanent organism of regional cooperation;

That, a closer cooperation and coordination among Latin American countries should contribute to the attainment of greater economic and social benefits and a better use of the fishery resources by its peoples;

Taking note of the recent adoption of the United Nations Convention on the Law of the Sea and acknowledging the important contribution of Latin American States to the progressive development of the international law of the Sea and notwithstanding the different position of Latin American States on the adoption of that Convention;

Recognizing the urgent need to create a permanent mechanism of regional cooperation within the Latin American Fisheries Sector;

Decide to subscribe to the following Constitutional Agreement of the Latin American Organization for Fisheries Development.

CHAPTER ONE. NAME, PRINCIPLES, OBJECTIVES AND AREAS OF ACTION

Article 1. NAME

The Latin American States represented at the third Annual Meeting of Ministers responsible for matters concerning fisheries create the Latin American Organization for Fishery Development, the abbreviation of which is OLDEPESCA.

OLDEPESCA shall have international legal personality, and shall be governed by the provisions of this Agreement and Regulations made hereunder.

Article 2. HEADQUARTERS

The headquarters of OLDEPESCA will be located in the city of Lima, Peru.

Article 3. PRINCIPLES

The actions of OLDEPESCA shall be based on the principles of equality, sovereignty, independence of the States, solidarity, non-intervention in domestic affairs and respect for the different political, economic and social systems, in accordance with the Declaration of Principles of International Law and with reference to relations of friendship and cooperation between States in accordance with the Charter of the United Nations unanimously approved at the General Assembly of the U.N. during its XXV Session, and respect for the sovereignty of States over their fishery resources.

Article 4. OBJECTIVES

The main purpose of the Organization is to meet Latin American food requirements adequately, making use of Latin American fishery resource potential for the benefit of Latin American peoples, by concerted action in promoting the constant development of the countries and the permanent strengthening of regional cooperation in this sector. To this end, the objectives of OLDEPESCA are as follows:

a) To promote adequate utilization of fishery resources, preserving the marine and freshwater environment through the application of rational policies for the conservation of resources.

b) To encourage and strengthen the Latin American cooperation in the development of the rational exploitation of sea and freshwater fishery resources, for the benefit of the peoples in the region.

c) To increase substantially a food supply of sufficient nutritional value, the prices, preparation and presentation of which are in keeping with the needs of the low-income inhabitants of the region.

d) To increase in the same manner, consumption of marine and freshwater products in the region.

e) To encourage, similarly, export diversification and expansion.

f) To promote marketing systems to expand the regional exchange of products of the sector.

g) To promote generation of jobs and improvement of incomes, through greater social and economic development of the communities related to the fishery activity of the region.

h) To improve and strengthen the productive, institutional, organizational and human resources capacity of the sector.

i) To promote and organize utilization of the joint negotiating capacity of the Latin American region, as well as to determine, identify and channel international, technical and financial cooperation, through concrete regional coordination and cooperation within the scope of the sector.

Article 5. AREAS OF ACTION

Regional cooperation shall concentrate mainly on the following areas:

a. Research on Fishery Resources.

b. Exploitation of Fishery Resources, Industrialization and Physical Support Infrastructure.

c. Aquaculture.

d. Technological Development.

e. Marketing.

f. Training.

g. International Cooperation.

CHAPTER TWO. MEMBERS AND THEIR OBLIGATIONS

Article 6. MEMBERSHIP

The members of OLDEPESCA shall be those States belonging to the Latin American Economic System which sign and ratify [or] which accede to the present Agreement.

Article 7. SUPPORT OF OLDEPESCA ACTIVITIES

The member countries undertake to carry out the decisions expressed in resolutions issuing from the competent organs of OLDEPESCA. Similarly, they undertake to create and strengthen the necessary mechanisms to put into practice the objectives set out in this instrument. They also undertake to prepare and furnish statistical data and information required by OLDEPESCA to achieve its goals and to appoint the competent national agency to coordinate its activities.

Article 8. INTERNATIONAL STATUS

The contracting parties undertake to acknowledge and respect the international status of the officers of the Executive Management Board.

CHAPTER THREE. STRUCTURE

Article 9. ORGANS

OLDEPESCA consists of the following organs:

a. Conference of Ministers.

b. Governing Board.

c. Executive Management Board.

First Section. Conference of Ministers

Article 10. COMPOSITION

The Conference of Ministers is the supreme authority of the Organization. It consists of the Ministers or Secretaries of State who are responsible for matters related to the fishery sector, who may attend the Conference with such experts and advisors as they may deem necessary.

In the event a Minister is unable to attend a meeting, he may be represented by a delegate appointed expressly for this purpose.

Article 11. POWERS

The Conference of Ministers, as the Organization's supreme Authority, has the following powers:

a. To formulate the general policy of the Organization and to adopt the measures required to achieve its objectives, in accordance with the present Agreement.

b. To consider and evaluate the operation of the Organization.

c. Approve any amendments to the Agreement in accordance with Article 35.

d. To review, modify or supplement the fields of cooperation within the region as established in Article 5 of this Agreement.

e. To appoint and dismiss the Executive Director and the Assistant Executive Director.

f. To approve, amend or reject, as may be the case, the reports and proposals of the Board of Directors and the Executive Director.

g. To select a country other than the host country to hold a regular or special meeting whenever it is deemed convenient.

h. To give instructions to the Executive Management Board.

i. To establish a system of initial contributions and annual dues and any amendment thereof in accordance with the needs of OLDEPESCA.

j. To approve the Program of Activities and the budget of OLDEPESCA.

k. To study and approve the Annual Report submitted by the Executive Director.

l. To approve the creation of Technical Committees or other systems of cooperation.

m. To approve in the First Regular Meeting the Regulations of the Organization to be made by the Executive Director and to amend them when it is deemed convenient.

n. To consider and decide on any other matter pertaining to the Organization.

Article 12. MEETINGS

The Conference of Ministers shall hold a regular meeting once a year. It may also hold extraordinary meetings at the request of at least one half plus one of the Member States. The meetings shall be convened by the Executive Director and shall be held at OLDEPESCA Headquarters, except when otherwise agreed upon by the Conference of Ministers.

The Conference of Ministers shall elect a Chairman and a Vice-Chairman. The Executive Director shall act as Secretary of the said Conference.

At the first ordinary meeting of the Conference of Ministers, the first Chairman and Vice-Chairman shall be elected by consensus. Should there be no consensus those officers shall be elected by a vote of no less than two thirds of the member States present.

The Chairman and Vice-Chairman of the Conference of Ministers shall act in those capacities until the following Regular Meeting and shall preside over the extraordinary meetings to be held during [this] period.

Afterwards, the offices of Chairman and Vice-Chairman shall be held successively by the Minister of each country in alphabetical order according to the Spanish language.

During the exercise of his functions, the Chairman or whoever is acting as such, shall be replaced as a representative of his Government by the delegate appointed to this end.

During the meetings of the Conference of Ministers, the Permanent Secretariat of SELA shall act as observer, as may all those countries or international organizations the Conference may invite. The Conference may also hold meetings that may be attended only by its members.

Article 13. QUORUM

The Conference of Ministers may hold meetings only with the attendance of at least one half plus one of its members.

Article 14. THE RESOLUTIONS

The Conference shall express its will through Resolutions. Each country shall have one vote. The Resolutions shall be adopted by a majority of no less than two thirds of the Member Countries present in the cases set out in subparagraphs (*a*), (*c*), (*f*), (*j*), (*m*) of Article 11. In other cases Resolutions shall be adopted by a majority of no less than one half plus one of the Member Countries present.

Second Section. Governing Board

Article 15. COMPOSITION

The Governing Board is the technical agency of OLDEPESCA. It consists of an Official Representative and a substitute appointed by each Member Country.

Article 16. POWERS

The Governing Board shall formulate, analyze, revise, propose and recommend to the Conference all those provisions necessary for the application of this Agreement and achievement of its objectives. To this end, the Governing Board has the following powers:

a. To make recommendations to the Conference of Ministers for the fastest development of the sector, bearing in mind the food requirements of the people, the needs of the workers and entrepreneurs, and the need to attain an adequate level in the utilization of resources. In this sense, it shall make recommendations on the following matters:

1. The general policy of the Organization.

2. Revision, amendment or supplementing of the regional cooperation areas established in Article 5 of this Agreement.

3. The reports and proposals of the Executive Director.

4. The Program of Activities, Budget of the Organization and External Audit.

5. The creation of Technical Committees or other systems of cooperation.

6. The evaluation of the operation of the Organization.

7. Other matters pertaining to the Organization.

b. To consider and to propose to the Conference of Ministers the amendments to the Agreement, and Regulations made hereunder directed to strengthen the Organization and to improve its operation.

c. To select the external auditor considering the proposals of the Executive Director.

Article 17. MEETINGS

The Governing Board shall hold an Ordinary Meeting once a year prior to the Annual Meeting of the Conference of Ministers. It may hold extraordinary meetings at the request of at least one half plus one [of] the Member Countries [or] of the Conference of Ministers.

The Meeting of the Governing Board shall be convened by the Executive Director and shall be held at OLDEPESCA headquarters except when otherwise agreed upon by the Conference of Ministers.

The Governing Board shall elect a Chairman and a Vice-Chairman from among its Members. The Executive Director shall act as Secretary.

At the first ordinary meeting of the Board the first Chairman and Vice-Chairman shall be elected in the same manner as that set out in Article 12.

The Chairman and Vice-Chairman of the Governing Board shall act in those capacities until the following Regular Meeting and shall preside over the special meetings to be held during this period.

Afterwards, the office of Chairman and Vice-Chairman shall be held successively by the representative of each country in alphabetical order according to the Spanish language.

During the exercise of his functions, the Chairman or whoever is acting as such, shall be replaced as a representative of his Government by the respective alternate representative.

Article 18. QUORUM

The Governing Board may hold meetings only with the attendance of at least one half plus one of its members.

Article 19. RESOLUTIONS

The Board shall express its will through Resolutions. Each country shall have one vote. The Resolutions shall be adopted by a majority of no less than one half plus one of the Members present.

Third Section. Executive Management Board

Article 20. EXECUTIVE DIRECTOR

An Executive Director shall be in charge of the Executive Management Board. This officer shall be a highly qualified individual in every respect with such experience as to ensure the proper performance of his duties. As Executive Director he shall neither seek nor receive instructions from any member country except through the Conference of Ministers, or from any countries or authorities external to OLDEPESCA. He shall refrain from any action incompatible with his position as an international officer and shall not hold any other position, whether remunerated or not. The Executive Director is responsible only to the Conference of Ministers.

The Executive Director shall be a national of a Member Country of OLDEPESCA and shall after his appointment, reside in the host country of the Organization. He shall be appointed by the Conference of Ministers for a term of three years, and may be reappointed for one additional term, only. In the event of his resignation or removal from office, the Conference shall immediately proceed to appoint a new Executive Director who shall exercise his functions for the same term.

Article 21. FUNCTIONS

The Executive Director is the highest executive officer of OLDEPESCA. His functions are as follows:

a. To carry out policies of OLDEPESCA within the objectives of the Organization and the resolutions of the Conference of Ministers.

b. To prepare the Program of Activities of OLDEPESCA and its Budget to be submitted to the Governing Board and to the Conference of Ministers.

c. To adopt the technical and administrative measures necessary to hold the Conference of Ministers and the Governing Board.

d. To prepare, in close coordination with the countries, the technical proposals to be considered by the Governing Board and the Conference of Ministers.

e. To act as Secretary at the Meeting of the Conference of Ministers and the Governing Board.

f. To engage and dismiss from office the personnel he may deem necessary for the efficient performance of the functions of OLDEPESCA and the advisers required to carry out the Program of Activities.

g. To propose to the Governing Board the creation of Technical Committees and systems of cooperation he may deem necessary for the formulation and execution of specific projects.

h. To receive contributions from Member Countries and to manage the assets of OLDEPESCA.

i. To draft and submit for consideration to the Board the financial reports of OLDEPESCA.

j. To propose and to hire external auditing services for each financial report, according to Article 16 (c) of the present Agreement.

k. To represent OLDEPESCA before the different governments, conferences and other forums related to the Organization. Similarly, to be its legal representative.

l. To attend without the right to vote the Meetings of the Conference of Ministers and the Governing Board.

m. To exercise the powers vested upon him expressly by the Conference of Ministers or Governing Board.

n. To make such financial arrangements as are in keeping with the mandates of the Conference of Ministers and Organization policies for the adequate development of the Organization and its Program of Activities.

ñ. To propose to the Conference of Ministers or to the Governing Board the measures to be adopted which may contribute to a better organization and operation of the Executive Management Board.

o. To sign international technical cooperation agreements approved by the Governing Board and by the Conference of Ministers to achieve the objectives of OLDEPESCA.

p. To appoint or remove the Assistant Executive Director informing the Governing Board and the Conference of Ministers so the latter may pronounce on it.

Article 22. ASSISTANT EXECUTIVE DIRECTOR

The Assistant Executive Director shall perform the duties that the Executive Director assigns to him and shall represent him during his absence. To be appointed to this position, the same requirements which are established in Article 20 in respect of the appointment of Executive Director shall be met.

Article 23. APPOINTMENT OF PERSONNEL

The Executive Director shall appoint personnel for the Executive Management Board. To this end, he shall consider above all the efficiency, competence and honesty of the candidates. If possible and in so far as this is not incompatible with the previous criterion, consideration shall be given to the desirability of obtaining as wide a Latin American geographical representation as possible. During the exercise of their functions, personnel shall not receive or seek instructions from any Government or from any other authority external to OLDEPESCA.

Fourth Section. Technical Committees

Article 24. CREATION AND OPERATION

The Conference of Ministers may on its own initiative or at the proposal of the Governing Board set up such technical committees and systems of operation as may be thought necessary for the formulation and execution of specific projects. The Technical Committees shall be composed of representatives of the Countries participating in the respective projects. The periods of operation of such Committees shall not continue longer than the life of the project being carried out. The Committees shall report their activities to the Executive Director [and] he, in turn, shall report to the Governing Board. The Executive Management Board shall actively participate in the execution of the different projects.

CHAPTER FOUR. LEGAL CAPACITY, ASSETS AND FINANCIAL RESOURCES

Article 25. LEGAL CAPACITY

OLDEPESCA shall have international legal personality and capacity to hire, purchase and transfer personal property or real estate as well as to institute judicial proceedings for the achievement of its objectives, according to the domestic laws of the States where such capacity is exercised.

Article 26. ASSETS

The financial assets of OLDEPESCA consist of the initial contributions and annual dues of its Members and all the property and rights it may acquire whether by purchase or by gift. The contribution of its Members shall be in accordance with the scheme of the Latin American Economic System as determined by the Conference of Ministers and may be changed in accordance with its needs.

Article 27. BUDGET

The operations of OLDEPESCA shall be financed through annual contributions made by the Member Countries. The Executive Management Board shall propose to the Governing Board a draft budget and a quota of annual contributions due from Member Countries in keeping with the system established by the Conference of Ministers. The fiscal year begins January 1st, and ends December 31st. OLDEPESCA seek additional sources of funds to finance its operation. The Conference of Ministers shall determine the means to achieve this objective.

Article 28. EXTERNAL AUDITING

At the end of each fiscal year, an external auditor shall examine the accounting books and registers of OLDEPESCA and shall submit to the Governing Board the corresponding financial reports which the Board in turn shall submit for consideration to the Conference. This external auditor shall have access to OLDEPESCA's system of [accounting] and shall submit the reports he may deem pertinent or which may be requested.

CHAPTER FIVE. PRIVILEGES AND IMMUNITIES

Article 29. PRIVILEGES AND IMMUNITIES

OLDEPESCA as an International Organization shall enter into a headquarters Agreement with the Government of the Member Country in whose territory its headquarters is located, which Agreement shall be signed by the Government concerned and by the Executive Director with the prior approval of the Conference of Ministers.

In case the Organization would establish offices or agencies in any other Member State, the corresponding agreements on privileges and immunities shall be agreed upon.

CHAPTER SIX

Article 30. SIGNATURE

This Agreement will be open for signature by any Member State of the Latin American Economic System at the Ministry of Foreign Affairs of Peru from October 29, 1982 until January 29, 1983.

Article 31. RATIFICATION

This Agreement shall be subject to ratification. The instruments of ratification shall be deposited at the Ministry of Foreign Affairs of Peru.

Article 32. ACCESSION

After January 29, 1983 this Agreement shall be open to accession by any member State of the Latin American Economic System. The instrument of accession shall be deposited at the Ministry of Foreign Affairs of Peru.

Article 33. ENTRY INTO FORCE

This Agreement shall enter into force 30 days after the deposit of the fourth ratification instrument.

For each country that ratifies or [accedes to] the Agreement after the fourth instrument of ratification has been deposited, the Agreement shall enter into force on the date of deposit of such instrument of ratification or accession.

Article 34. DEPOSITARY

The depositary shall inform the countries party to the Agreement of:

a. The fact of signing and the date of signature.

b. The deposit of every instrument of ratification or accession and the date of deposit of such instrument.

c. The date of entry into force of this Agreement under Article 33, paragraph 1.

d. Every notice received and the date of receipt of such notice.

[CHAPTER SEVEN. FINAL PROVISIONS]

Article 35. AMENDMENTS

Any State party to this Agreement may, through the Executive Management Board propose the amendment or alteration of this Agreement and the Executive Management Board shall report the proposal to other States party to this Agreement.

The Conference of Ministers shall examine the proposals during its next ordinary meeting or it may under Article 12 call for an Extraordinary meeting. Proposals for amendment shall be voted on in accordance with Article 14 and shall [, if] approved, enter into force (thirty days after the fourth notification) in the same manner as set out in Article 33.

Article 36. DENUNCIATION

This Agreement shall remain in force indefinitely but each State party to the Agreement may denounce it at any time by written notification to the host country.

The denunciation shall have effect 180 days after the date on which the notification was received by the depositary.

The Government of the host country shall notify the States party or signatories to this Agreement of the notification of the denunciation and the date on which the denunciation comes into effect.

The State making the denunciation shall comply with any obligation by which [it] was bound before its denunciation, notwithstanding that such obligation may continue after the effective date of withdrawal.

Notwithstanding the denunciation of this Agreement by a State, that State may continue to be linked to specific programmes until they are completed. This matter shall be decided by the Conference of Ministers.

Article 37. RESERVATION

No reservation may be made to this Agreement at the time of signature, ratification or accession.

Article 38. DISPUTES

Disputes relating to the application and interpretation of this Agreement which are not settled by the Members concerned shall at the request of any party to the conflict be referred to the Conciliation Commission appointed for this purpose and comprising delegates of the member countries chosen by the parties to the dispute.

[In the event that the dispute is not settled via the proceedings of the Conciliation Commission, the provisions of international law for the peaceful settlement of disputes shall be applied until a solution acceptable to the parties is found.][1]

Article 39. OFFICIAL LANGUAGES

The official languages of this Agreement are those recognised by the Latin American Economic System.

TRANSITORY PROVISION. SUBSTITUTION OF THE ACTION COMMITTEE ON SEA AND FRESHWATER PRODUCTS

OLDEPESCA replaces the Action Committee on Sea and Freshwater Products set up in Lima, Peru, and consequently, the activities and projects which have not been completed by the Action Committee shall become part of OLDEPESCA's activities.

Similarly, all the financial assets of the aforementioned Committee, as well as the financial commitments of the Member Countries, shall be transferred to OLDEPESCA.

[1] The paragraph within brackets appears in the authentic Spanish and French texts only, on the basis of which a translation has been provided by the Secretariat of the United Nations—Le paragraphe entre crochets ne figure que dans les textes authentiques espagnol et français, sur la base desquels une traduction a été effectuée par le Secrétariat de l'Organisation des Nations Unies.

IN FAITH WHEREOF the plenipotentiaries duly accredited signed the present Agreement.

DONE in the city of Mexico the twenty-ninth day of October one thousand nine hundred and eighty-two, in one original of each one of the official languages of SELA, being these texts equally valid. [The original text of the Agreement in the French and Portuguese languages will be signed at a later date.][1]

[JORGE PRUDENCIO][2]

For the Republic of Bolivia

[ARMANDO BOLAÑOS]

For the Republic of Costa Rica

[TULY LOOR ARGOTE]

For the Republic of Ecuador

[MARIO GONZALES RECINOS]

For the Republic of El Salvador

[LUIS HUMBERTO FIGUEROA]

For the Republic of Guatemala

[HAMILTON GREEN]

For the Republic of Guyana

[REMILLOT LEVEILLE]

For the Republic of Haiti

[MARIO ALFREDO ZEA]

For the Republic of Honduras

[FERNANDO RAFFUL MIGUEL]

For the Republic of the United States of Mexico

[ALFREDO ALANIZ DOWNING]

For the Republic of Nicaragua

[RICHARD REAL]

For the Republic of Panama

[RENÉ DEUSTUA JAMESON]

For the Republic of Peru

[1] This statement should refer solely to the Portuguese text which has not yet been established (information provided by the Government of Peru).
[2] Names of signatories appearing between brackets were not legible and have been supplied by the Government of Peru.

Amendments (I and II) to the Convention Instituting the Latin American Organization for Fisheries Development (OLDEPESCA) of 29 October 1982, Managua, 1984

Done at Managua 2 November 1984

Depositary: Peru

Primary source citation: United Nations Treaty Series

AMENDMENT I TO THE LATIN-AMERICAN FISHING DEVELOPMENT ORGANIZATION (OLDEPESCA) AGREEMENT

The member states of the Latin-American Fishing Development Organization, duly represented in its 1st Ministerial Conference,

In view of Articles 11 (c), 14 and 35 of the OLDEPESCA Agreement and Articles 7 and 8 of the Declaration by the Ministers of Fishing of SELA's Action Committee on Seafood and Freshwater Products issued in its 4th Meeting, held in October 1983, and

Considering that it is of interest to the Latin-American and Caribbean countries to incorporate in the OLDEPESCA Agreement those provisions that improve it and contribute to the ratification of or adherence to that Agreement by all those countries;

That, in this regard, it is necessary to specify in the Agreement that the countries which have signed agreements on the preservation, conservation and exploitation of marine and freshwater resources will, in the programs which they sign within the framework of the agreement, honor the commitments assumed in those agreements; and

That it is also necessary to consider, in the Agreement, the principle of consensus on all those substantive aspects of regional cooperation that are in OLDEPESCA's sphere of competence,

Resolve to amend the OLDEPESCA Agreement as follows:

First. To include the following additional paragraph in Article 37 of the OLDEPESCA Agreement:

"The signatory member states that have already entered into agreements for the preservation, conservation and exploitation of marine and freshwater resources will honor the commitments made by virtue of the aforementioned agreements when participating in programs arising from the Incorporation Agreement"; and

Second. To modify Article 14 of the OLDEPESCA Agreement to read as follows:

"The Conference shall express its will through Resolutions. Each State has the right to one vote.

Resolutions shall be adopted by consensus of attending Member States in those cases stipulated in paragraphs (*c*), (*i*) and (*m*) of Article 11, and by two thirds majority of attending Member States in those cases stipulated in paragraphs (*a*), (*f*), (*h*) and (*j*) of said Article. In all other cases, Resolutions shall be adopted by a majority not less than half plus one of attending Member States."

IN WITNESS WHEREOF, the members of the Ministerial Conference, duly authorized, sign this amendment in Managua, Nicaragua, on November 2, 1984, with one original in each of the languages of the Latin-American Economic System (SELA), all of which are equally valid. The original texts in French and Portuguese will be signed at a later date.[1]

[*Signed*]

Mr. CARLOS AQUILINO DUARTE FUNES

Minister of Agriculture
The Republic of El Salvador

[*Signed*]
Mr. PEDRO OJEDA PAULLADA

Secretary of Fishing
The United Mexican States

[*Signed*]
Mr. ALFREDO ALANIZ DOWNING

Minister of Fishing
The Republic of Nicaragua

[*Signed*]
Mr. JOSÉ BERNARDO CÁRDENAS

Minister of Industry and Commerce
The Republic of Panama

[1] The French and Portuguese texts have not yet been established (information provided by the Government of Peru).

AMENDMENT 2 TO THE LATIN-AMERICAN FISHING DEVELOPMENT ORGANIZATION (OLDEPESCA) AGREEMENT

The member states of the Latin-American Fishing Development Organization, duly represented in its 1st Ministerial Conference,

In view of Articles 11 (c), 14 and 35 of OLDEPESCA's Agreement and the Agreement of the 4th Meeting of Ministers of Fishing of SELA's Action Committee on Seafood and Freshwater Products and

Considering that it is necessary to ensure the continuity of the cooperation actions undertaken by SELA's Action Committee on Seafood and Freshwater Products, contributing to OLDEPESCA's operation with broad participation by the countries which had been members of SELA's Action Committee;

That, while adhesions to and ratifications of OLDEPESCA's Agreement occur, it is advisable to allow all the member countries of the Action Committee and other Latin-American and Caribbean countries that are members of SELA to participate in the Organization's activities so as not to interrupt the activities and projects undertaken by the said Committee; and

That it is, therefore, advisable to include a Temporary Provision in OLDEPESCA's Agreement in order to make the fulfillment of the said objective feasible,

Resolve to amend the OLDEPESCA Agreement as follows:

First. To include the following Temporary Provision in the OLDEPESCA Agreement:

"*Participation of SELA member countries in OLDEPESCA*

"Until they complete their arrangements for ratification of or adhesion to OLDEPESCA's Agreement, all countries that have been members of SELA's Action Committee on Seafood and Freshwater Products may participate in its programs of activities, paying the annual fee to be established once they have concluded all the legal and technical procedures for this purpose. These countries will participate as full members in the meetings of the Ministerial Conference and of the Board of Directors, with the right to vote on the Program of Activities and the Budget, and in the meetings of the Technical Committees, with the right to formulate and implement specific projects and participate in the management of those projects.

"All the other SELA member countries may adhere to the above-mentioned paragraph.

"The present Temporary Provision will be valid for one year after the OLDEPESCA Agreement goes into effect but may be extended by the Ministerial Conference."

IN WITNESS WHEREOF, the members of the Ministerial Conference, duly authorized, sign this amendment in Managua, Nicaragua, on November 2, 1984, with one original in each of the languages of the Latin-American Economic System (SELA), all of which are equally valid. The original texts in French and Portuguese will be signed at a later date.[1]

[*Signed*]
Mr. CARLOS AQUILINO DUARTE FUNES

Minister of Agriculture
The Republic of El Salvador

[*Signed*]
Mr. PEDRO OJEDA PAULLADA

Secretary of Fishing
The United Mexican States

[*Signed*]
Mr. ALFREDO ALANIZ DOWNING

Minister of Fishing

[1] The French and Portuguese texts have not yet been established (information provided by the Government of Peru).

The Republic of Nicaragua

[*Signed*]
Mr. JOSÉ BERNARDO CÁRDENAS

Minister of Industry and Commerce
The Republic of Panama

Regional Convention on Fisheries Cooperation Among African States Bordering the Atlantic Ocean, Dakar, 1991

Done at Dakar 5 July 1991

Entered into force 11 August 1995

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

The African States Bordering the Atlantic Ocean, Parties to this Convention :

MINDFUL of the United Nations Convention on the Law of the Sea signed on 10 December 1982, in particular its provisions encouraging the conclusion of regional and sub-regional agreements on fisheries cooperation as well as other relevant international treaties ;

BEARING IN MIND the Rabat Declaration adopted at the end of the Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean, which took place in the Kingdom of Morocco from 30 March to 1 April, 1989 ;

TAKING INTO ACCOUNT the existing regional and sub-regional fisheries agreements between States of the Region ;

CONVINCED that, in view of the particular nature of the marine environment no rational management of stocks and consequently sustainable fisheries development may be secured without coordination of policies in this field particularly among States belonging to the same region ;

CONVINCED, therefore, of the need for regional consultation for the purpose of achieving harmonized policies regarding fishery resources exploitation, conservation and processing ;

DETERMINED, for that purpose, to promote between them and in collaboration with competent sub-regional, regional, and international organizations, active cooperation in line with the aspirations of States of the Region, within the context of a fisheries management strategy designed to serve the economic, social and nutritional development of their populations ;

HAVE AGREED as follows :

Article 1

Scope and use of terms

1) The provisions of this Convention shall apply to the following African States bordering the Atlantic Ocean :

People's Republic of Angola, Republic of Benin, Republic of Cameroon, Republic of Cape-Verde, Republic of Congo, Republic of Côte d'Ivoire, Republic of Gabon, Republic of The Gambia, Republic of Ghana, Republic of Guinea, Republic of Guinea Bissau, Republic of Equatorial Guinea, Republic of Liberia, Kingdom of Morocco, Islamic Republic of Mauritania , Republic of Namibia, Federal Republic of Nigeria, Democratic Republic of Sao Tome and Principe, Republic of Senegal, Republic of Sierra Leone, Republic of Togo, Republic of Zaire.

2) For the purpose of this Convention :

a) "Region" : means the area comprising the above mentioned States

b) "Party" : means any State party to this Convention ;

c) "Convention" : means this Convention.

Article 2

Objectives

The objectives of this Convention shall be to enable Parties :

a) to promote an active and organized co-operation in the area of fisheries management and development in the Region ;

b) to take up the challenge of food self-sufficiency through the rational utilization of fishery resources, within the context of an integrated approach that would embrace all the components of the fishing sector ;

c) to stimulate the national economic sectors through the direct and secondary effects resulting from fishery resources exploitation, bearing in mind the importance of the fisheries sector in the economic, social and nutritional development process of the people of the Region ;

d) to enhance, coordinate and harmonize their efforts and capabilities for the purpose of conserving, exploiting, upgrading and marketing fishery resources, considering in particular fish stocks occuring within the waters under the sovereignty or jurisdiction of more than one Party ;

e) to reinforce solidarity with African land-locked States and geographically disadvantaged States of the Region.

Article 3

Conservation and management of fishery resources

1) Parties shall combine their efforts to ensure the conservation and rational management of their fishery resources and take concerted action for the assessment of fish stocks occurring within the waters under the sovereignty or jurisdiction of more than one Party.

2) Parties shall establish and maintain an up-to date inventory of human and material resources of the Region and shall conclude arrangements utilizing their complementary strengths in the area of fishery resources assessment.

3) Parties shall exchange scientific information regarding fishery resources, statistics relating to catch and fishing effort and other data relevant to the conservation and management of fish stocks with the objective of achieving their optimum utilization.

4) Parties shall endeavour to adopt harmonized policies concerning the conservation, management and exploitation of fishery resources, in particular with regard to the determination of catch quotas and, as appropriate, the adoption of joint regulation of fishing seasons.

Article 4

Assessment and conservation of highly migratory species

Parties undertake to exchange information on their activities regarding the assessment and conservation of highly migratory species and coordinate their actions in this area within the competent international organizations.

Article 5

Monitoring, surveillance and control of fishing vessels

Parties shall work and collaborate with all the means at their disposal, or which they may jointly acquire to ensure the monitoring, surveillance and control, including technical control, of fishing vessels operating in the Region.

Article 6

Development of fishery production and means of production

1) Parties shall give particular attention to development and upgrading of fishery production in all its forms so that the beneficial effects of fishing activity may contribute to the social and economic development of their people.

2) For the purpose of developing fishery production in the Region, Parties shall promote cooperation and encourage joint actions in the following priority areas:

   a) the enhancement of the Region's capabilities with respect to freezing plants and fish processing facilities ;

   b) the modernization of means of production, particularly for artisanal fishing ;

   c) the promotion of under valued or under exploited species ;

   d) the development of aquaculture and the utilization of technical improvements achieved in this area for the purpose of adapting it to the particular circumstances of the Region.

Article 7

Marketing of fishery products

1) Parties shall encourage the establishment of bilateral and multilateral co-operation in the marketing of fishery products so as to promote intra-African fish trade and to enhance the exporting capacities of Parties in the world market. To this end they undertake :

   a) to inquire into their needs and capacities regarding fishery products ;

   b) to promote and harmonize laws and regulations concerning trade in fishery products ;

   c) to determine common positions regarding international trade in fishery products ;

   d) to promote the conclusion of bilateral or multilateral arrangements favouring in particular, trade preferences and facilities for payment ;

   e) to identify and carry out measures capable of enhancing the quality image of fishery products of the Region.

2) Parties shall encourage meetings between operators from the fisheries sector in order to encourage the exchange of information on technological advances in fisheries and aquaculture and to promote the prod-

ucts of their respective fishing industries.

Article 8

Fisheries planning and financing

With a view to promoting the fisheries sector and its connected industries at the macro-economic level, Parties shall endeavour:

a) to reinforce specialized bodies and capabilities, in particular those relating to economic and social analysis, in order to determine the required policies and strategies for the rational management and planned development of the fisheries of the Region ;

b) to promote specific financing mechanisms in line with the needs of the Region's fisheries sector, in the form of a system of maritime credit or other appropriate system.

Article 9

Social conditions of fishermen

Taking into account the vital role of the Region's fishermen in the development of artisanal and industrial fisheries, Parties agree to promote the improvement of their welfare in particular with respect to professional standing and working conditions.

Article 10

Enhancement of vocational and technical training

In order to meet more effectively the specific needs of the fisheries sector in terms of persons qualified at sea and on shore, Parties shall :

a) promote the establishment of regional cooperation in the field of maritime training that would encompass technical, scientific, economic and legal aspects relevant to the fisheries sector. Such training will take into account relevant international standards and regulations as well as the evolution of maritime technologies ;

b) encourage optimum use of the Region's training institutions so as to foster the exchange of trainers and students as well as the joint formulation of training programmes ;

c) collaborate in the establishment and updating of a directory of training institutions in the Region that would in particular indicate the requirements for admission to these institutions ;

d) promote a common regional maritime training policy that would cover all levels and activities of the fisheries sector and give particular consideration to the training of women.

Article 11

Development of marine scientific research

1) Parties shall encourage the exchange of experience in the field of marine scientific research with a view to promoting joint activities aiming at achieving better knowledge of the marine environment and its resources and, in due course, formulating fisheries management plans as well as improving fishing techniques or gears adapted to the specific needs of the Region ;

2) Parties shall encourage the twinning of the Region's institutions so as to allow the exchange of scientists and the formulation of research programmes as well as the optimum use of vessels and other means of research.

Article 12

Protection and preservation of the marine environment

Parties shall intensify their efforts at the national, regional and international levels, directly or with the assistance of competent regional or international organisations, to ensure the protection and preservation of the marine environment as well as the management of coastal areas of the Region.

To this end, they shall promote the strengthening of bilateral, sub-regional and international cooperation mechanisms dealing with the protection and preservation of the marine environment and coastal areas as well as the intensification of their activities, while taking into account the relevant international standards and regulations on the subject.

Article 13

Harmonization of policies

Parties shall endeavour to harmonize their fisheries policies. To this end :

a) they shall adopt at the national level, laws and regulations to ensure proper implementation of the provisions of this Convention and its protocols ;

b) they shall encourage the exchange of information on fisheries laws and regulations and methods of their implementation.

c) they agree to consult one another in international conferences on fisheries in order to harmonize their positions.

Article 14

Fisheries cooperation agreements

Parties shall encourage the conclusion of fisheries agreements between them on a preferential basis. Furthermore, they shall exchange their experience in the negotiation and conclusion of fisheries cooperation agreements with third parties.

Article 15

Maritime data and information bank

With a view to promoting the dissemination of scientific, economic, technical and legal data and information regarding the Region's fisheries, Parties shall collaborate in the establishment and operation of a data and information bank, in cooperation with relevant sub-regional, regional and international organizations.

Article 16

Solidarity with land-locked African States and with geographically disadvantaged States of the region

Parties affirm their solidarity with land-locked African States and with geographically disadvantaged States of the Region and shall establish active cooperation with them.

Article 17

Institutional framework

1) For the purpose of implementing this Convention and its protocols, Parties shall establish an institutional framework comprising the Conference of Ministers; the Bureau and the Secretariat.

   a) The Conference of Ministers is the governing and decision making body with respect to fisheries cooperation among the Parties. It shall determine the objectives and principles governing programmes and activities to be carried out under this Convention. It shall hold a regular session once every two years and a special session at the request of a majority of the Parties ;

   b) the Bureau is the coordinating organ of the Conference of Ministers ;

   c) the Secretariat is the executive organ.

2) The Conference of Ministers shall define the status of the above mentioned organs.

3) Third States and competent governmental and nongovernmental international organizations may be invited as observers to the sessions and meetings of the said organs.

Article 18

Budget

A regional fisheries development fund (RFDF) shall be established. Such fund shall be managed by the Secretariat and the modalities concerning its establishment and operation shall be determined by the Conference of Ministers. The fund shall be used :

   a) to cover the operating expenses of the Secretariat ;

   b) to finance project and programme activities to be carried out under this Convention.

Article 19

Protocols

Parties shall prepare and adopt additional protocols establishing measures, procedures and standards for the purpose of clarifying and improving the methods by which the provisions of this Convention shall be implemented.

Article 20

Cooperation with other Organizations

With a view to achieving the objectives of this Convention, Parties shall cooperate through all appropriate means with relevant subregional, regional and international organizations, as well as with any other concerned institution.

Article 21

Settlement of disputes

Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with the Charter of the United Nations.

Article 22

Signature

This Convention shall remain open for signature by States of the Region with the Government of Senegal and also with the Depositary until 31 December 1992.

Article 23

Ratification acceptance, approval or accession

This Convention shall be subject to ratification, acceptance or approval by States which have signed it and shall remain open for accession by other States of the Region in accordance with their respective procedures.

Article 24

Entry into force

This Convention shall enter into force thirty (30) days following the deposit with the Director General of the Food and Agriculture Organization of the United Nations of the seventh instrument of ratification, approval or accession.

For each of the States which ratifies the Convention or accedes after the deposit of the seventh instrument of ratification or accession, the Convention shall enter into force thirty (30) days after the deposit by that State of its instrument of ratification or accession.

Article 25

Amendments

Any Party may propose amendments to this Convention and its protocols. Amendments shall be circulated to all Parties six (6) months prior to their consideration.

Amendments shall be adopted by a two thirds majority of the Parties and shall enter into force ninety (90) days after their adoption.

Article 26

Denunciation

Five (5) years after the coming into force of the Convention any party may denunce it, provided that it notifies to the depositary its intention to do so.

A denunciation shall take effect one year after receipt of this notification.

Article 27

Depositary

1) This Convention shall be deposited with :

The Director General of the Food and Agriculture Organization of the United Nations who shall transmit certified true copies of this Convention to the Government of States which have signed it.

2) The depositary shall notify :

a) each new signatory of the Convention, and the deposit of an instrument of ratification, acceptance, approval or accession ;

b) the date on which the Convention enters into force ;

c) the date of coming into force of this Convention to proposals for amendments presented in accordance with Article 25 and the date of coming into force of amendments adopted;

d) the intention to denounce this Convention in accordance with Article 26 together with the date on which the denunciation takes effect.

Article 28

Languages

This Convention is established in a single original in the English and French languages, each text being equally authentic.

A certified true copy of this Convention shall be transmitted to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

DONE in Dakar this 5th day July 1991

– People's Republic of Angola

– Republic of Benin

– Republic of Cameroon

– Republic of Cape-Verde

– Republic of Congo [Signature]

– Republic of Côte d'Ivoire

– Republic of Gabon

– Republic of The Gambia

– Republic of Ghana

– Republic of Guinea

– Republic of Guinea Bissau

– Republic of Equatorial Guinea

– Republic of Liberia

– Kingdom of Morocco [Signature]

– Islamic Republic of Mauritania

– Republic of Namibia

– Federal Republic of Nigeria

– Democratic Republic of Soa Tome and Principe

– Republic of Senegal [Signature]

– Republic of Sierra Leone

– Republic of Togo [Signature]

– Republic of Zaire. [Signature]

CERTIFICATION

Copie certifiée conforme de la Convention régionale adoptée par la Conférence Ministerielle sur la Cooperation Halieutique entre les Etats africains riverains de l'Ocean Atlantique qui s'est tenue à Dakar, Sénégal, les 4 et 5 juillet 1991.

CERTIFICATION

Certified true copy of the Regional Convention on Fisheries Cooperation among African States bordering the Atlantic Ocean adopted by the Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean, held in Dakar, Senegal, on 4 and 5 July 1991.

Rome,

Directeur général
Organisation des Nations Unies pour
l'alimentation et l'agriculture

Director-General
Food and Agriculture Organization
of the United Nations

Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region, Honiara, 1992

Done at Honiara 9 July 1992

Entered into force 20 May 1993

Depositary: Niue

Primary source citation: Copy of text provided by the United Nations

THE PARTIES TO THIS TREATY:

GIVEN that in accordance with international law as expressed in the United Nations Convention on the Law of the Sea, coastal States have sovereign rights for the purposes of exploring and exploiting, conserving and managing the fisheries resources of their exclusive economic zones and fisheries zones;

TAKING INTO ACCOUNT Article 73 of the United Nations Convention on the Law of the Sea;

NOTING that the Parties to the South Pacific Forum Fisheries Agency Convention, 1979 have agreed under Article 5 of that Convention that the Forum Fisheries Committee shall promote intra-regional coordination and cooperation in fisheries surveillance and law enforcement;

CONSIDERING the vast areas of ocean covered by the exclusive economic zones and fisheries zones of coastal States in the South Pacific region and the vital economic significance of such zones to the economic development of South Pacific coastal States;

WISHING THEREFORE to enhance their ability to enforce effectively their fisheries laws, and deter breaches of such laws;

HAVE AGREED AS FOLLOWS:

Article I

Definitions

In this Treaty:

(a) "fishing" means:

(i) searching for, catching, taking or harvesting fish;

(ii) attempting to search for, catch, take or harvest fish;

(iii) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

(iv) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(v) any operations at sea directly in support of, or in preparation for any activity described in this paragraph;

(vi) use of any craft, air or sea borne, for any activity described in this paragraph except for emergencies involving the health and safety of the crew or the safety of a vessel;

(vii) the processing, carrying or transhipping of fish that have been taken.

(b) "fishing vessel" means any boat, ship or other craft which is used for, equipped to be used for, or of a type normally used for fishing;

(c) "foreign fishing agreement" means an agreement or arrangement authorizing or permitting foreign fishing vessels to fish in the exclusive economic zone or fisheries zone of any Party;

(d) "foreign fishing vessel" in relation to a Party means a fishing vessel which is not part of the domestic fleet of that Party;

(e) "South Pacific Forum Fisheries Agency" means the Agency of that name established by the South Pacific Forum Fisheries Agency Convention, 1979; and

(f) "Subsidiary Agreement" means an agreement or an arrangement entered into by any two or more Parties in accordance with this Treaty.

Article II

Relationship with other treaties

1. Rights and obligations under this Treaty shall apply as between the Parties in addition to any right or obligation concerning a similar matter applicable to a Party under any other Treaty.

2. A Subsidiary Agreement may expand upon rights and obligations under this Treaty in their application between the Parties to the Subsidiary Agreement.

Article III

General cooperation

1. The Parties shall cooperate in the enforcement of their fisheries laws and regulations in accordance with this Treaty and may agree on forms of assistance for that purpose.

2. The Parties shall cooperate to develop regionally agreed procedures for the conduct of fisheries surveillance and law enforcement. Where appropriate, fisheries surveillance and law enforcement will be conducted in accordance with such regionally agreed procedures.

Article IV

Cooperation in the implementation of harmonized minimum terms and conditions of fisheries access

1. The Parties shall cooperate in the implementation of harmonized minimum terms and conditions of fisheries access as may be agreed upon from time to time.

2. The Parties shall ensure that no foreign fishing vessel shall be licensed for fishing unless the vessel has good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency.

3. The Parties shall ensure that foreign fishing vessels licensed to fish under foreign fishing agreements are, as a minimum, required to provide reports in accordance with the standard forms of reporting as set out in the harmonized minimum terms and conditions of fisheries access from time to time.

4. The Parties shall ensure that fishing vessels licensed to fish under foreign fishing agreements are required to be readily identifiable from the sea and the air by way of distinctive markings.

5. The Parties shall, as far as possible, ensure that foreign fishing agreements with flag States require the flag State to take responsibility for the compliance by its flag vessels with the terms of any such agreement and applicable laws.

6. The Parties shall, as far as possible, ensure that foreign fishing arrangements with foreign parties, including Fishing Associations, require the foreign party to take responsibility for the compliance by its vessels with the terms of any such arrangement and applicable laws.

Article V

Exchange of information

1. Each Party shall, to the extent permitted by its national laws and regulations, provide to the South Pacific Forum Fisheries Agency, or to any other Party directly, information relevant to the purposes of this Treaty, including but not limited to information about:

(a) the location and movement of foreign fishing vessels;

(b) foreign fishing vessel licensing; and

(c) fisheries surveillance and law enforcement activities.

2. The Parties shall develop standard forms and procedures for reporting information provided under paragraph 1 of this Article and effective methods for communicating such information.

Article VI

Cooperation in fisheries surveillance and law enforcement

1. A Party may, by way of provisions in a Subsidiary Agreement or otherwise, permit another Party to extend its fisheries surveillance and law enforcement activities to the territorial sea and archipelagic waters of that Party. In such circumstances, the conditions and method of stopping, inspecting, detaining, directing to port and seizing vessels shall be governed by the national laws and regulations applicable in the State in whose territorial sea or archipelagic waters the fisheries surveillance or law enforcement activity was carried out.

2. Vessels seized by another Party pursuant to an agreement under paragraph 1 of this Article in the territorial sea or archipelagic waters of a Party shall, together with the persons on board, be handed over as soon as possible to the authorities of that Party.

3. Any two or more Parties may enter into a Subsidiary Agreement under which they would cooperate in the provision of personnel and the use of vessels, aircraft or other items of equipment for fisheries surveillance and law enforcement purposes. Vessels and aircraft shall be identified as set out in Annex 1.

4. Any Party wishing to authorize its officers to perform fisheries surveillance and law enforcement functions on its behalf while on board a vessel or aircraft of another Party shall by instrument in writing designate the officers accordingly and such officers shall be identified as set out in Annex 2.

5. Any Party wishing to authorize the officers of another Party to perform fisheries surveillance and law enforcement functions on its behalf while on board a vessel of that other Party shall by instrument in writing designate such officers accordingly. Officers carrying out enforcement functions shall be identified by a card in the form set out in Annex 2 with such variations as may be agreed to in a Subsidiary Agreement or otherwise.

Cooperation in prosecutions

1. The Parties may, by way of provisions in a Subsidiary Agreement or otherwise, agree on procedures for the extradition to a Party of persons charged with offences against the fisheries laws of that Party.

2. A Party may request another Party which is holding a person or any equipment (including a vessel) in custody for an offence against the laws of the holding Party to assist the requesting Party to enforce its fisheries laws in respect of that person or equipment. The holding Party shall provide such assistance upon completion of its legal processes and to the extent permitted by its national laws and regulations. Such assistance shall be provided on conditions as to cost recovery or other matters as the Parties agree in each case.

3. The Parties may agree on procedures whereby persons permitted to appear as advocates or expert witnesses in the courts of one Party are, for the purposes of judicial proceedings involving offences against fisheries laws, entitled to perform the same or substantially similar functions in the courts of another Party.

4. Where there are waters over which more than one Party claims to have jurisdiction for the purposes of the application of fisheries laws, the Parties concerned shall for the purposes of the application of this Agreement seek to adopt the provisional lines used for the distribution of revenue received under the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America done at Port Moresby on 2 April 1987.

Article VIII

Cooperation in enforcement of penalties

Should two or more Parties wish to provide that a penalty imposed by one Party under its fisheries laws be enforced by another Party, they may, by way of provisions in a Subsidiary Agreement or otherwise, agree on procedures for that purpose consistent with their national laws.

Article IX

Consultations

The Director of the South Pacific Forum Fisheries Agency, at the request of any three or more Parties, shall convene a meeting to discuss any matter arising out of the application of this Treaty. The meeting shall be held at such time and place as the Parties may agree, but shall be held not more than 90 days after the request is notified to the Director.

Article X

Notification

1. Each Party shall notify the Director of the South Pacific Forum Fisheries Agency of the current postal, cable, telex and facsimile addresses which it wishes to be used for the receipt of notices given pursuant to this Treaty, and of any changes to a notified address. The Director of the South Pacific Forum Fisheries Agency shall inform all Parties of the notified addresses.

2. Any notice given under this Treaty shall be in writing and may be served by hand, post, cable, telex or facsimile to the notified address.

Article XI

Depositary

The depositary for this Treaty shall be the Government of Niue.

Article XII

Amendments

1. Any Party may propose to the depositary an amendment to this Treaty, which shall be considered by the Parties at a meeting arranged in accordance with Article IX.

2. The text of any amendments shall be adopted by unanimous decision of the Parties to the Treaty.

3. Any amendment to this Treaty which is adopted by the Parties shall enter into force upon the receipt by the depositary of the instruments of ratification, acceptance or approval by all of the Parties, or on such later date as may be specified in the amendment.

4. The depositary shall notify all of the Parties of the entry into force of an amendment.

Article XIII

Final clauses

1. This Treaty shall be open for signature by:

(a) any member of the South Pacific Forum Fisheries Agency;

(b) any Territory of a Member of the South Pacific Forum Fisheries Agency which has been authorized to sign the Treaty and to assume rights and obligations under it by the Government of the State which is internationally responsible for it.

2. This Treaty is subject to ratification by members of the South Pacific Forum Fisheries Agency and the Territories referred to in paragraph 1 of this Article. The instruments of ratification shall be deposited with the depositary.

3. This Treaty shall enter into force on the date of deposit of the fourth instrument of ratification.

4. This Treaty shall remain open for accession by the members of the South Pacific Forum Fisheries Agency and the Territories referred to in paragraph 1 of this Article. The instruments of accession shall be deposited with the depositary.

5. If all of the Parties agree, a State which is not a Party to the South Pacific Forum Fisheries Agency Convention may accede to this Treaty.

6. For any member of the South Pacific Forum Fisheries Agency or a State or Territory which ratifies or accedes to the Treaty after the date of deposit of the fourth instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification or accession.

Article XIV

Certification and registration

1. The original of the Treaty shall be deposited with the depositary, which shall transmit certified copies to all States and Territories eligible to become party to this Treaty.

2. The depositary shall register this Treaty in accordance with Article 102 of the Charter of the United Nations.

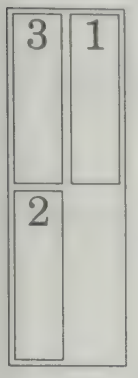
IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

OPENED FOR SIGNATURE at Honiara, Solomon Islands on the ninth day of July, One thousand nine hundred and ninety two.

ANNEX 1

FISHERIES SURVEILLANCE AND LAW ENFORCEMENT FLAG AND MARKINGS

Regional Fisheries Surveillance and Law Enforcement Flag:



1. light blue

2. dark blue

3. red and yellow (Forum crest)

The Regional Fisheries Surveillance and Law Enforcement Flag is authorized for use by vessels during fisheries surveillance patrols. It should be flown at the same times as the national or ensign flag with the national or ensign flag superior.

Aircraft Markings:

Aircraft shall be clearly marked and identifiable in a manner agreed between the Parties to subsidiary agreements.

ANNEX 2

IDENTIFICATION CARD

CREST	**TREATY ON COOPERATION IN FISHERIES SURVEILLANCE AND LAW ENFORCEMENT IN THE SOUTH PACIFIC REGION**
THE HOLDER OF THIS CARD IS AUTHORIZED TO ENFORCE THE FISHERIES LAWS OF THE COUNTRIES LISTED BELOW WHILE ON BOARD THIS CRAFT.	

NAME OF HOLDER: _____ SIGNATURE: _____ ISSUED BY: [name of issuing officer]____ SIGNATURE: _____ DATE: _____ THIS AUTHORISATION IS VALID UNTIL _____	photograph

Agreement on the Network of Aquaculture Centres in Asia and the Pacific of 8 January 1988, as amended, Hong Kong, 1992

Done at Hong Kong 11 December 1992

Entered into force 10 January 1993

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

AGREEMENT ON THE NETWORK OF AQUACULTURE CENTRES IN ASIA AND THE PACIFIC

As amended by the Governing Council of NACA at its Fourth Session held in Hong Kong (8-11 December 1992)

The Contracting Parties,

Conscious of the paramount importance of fisheries as an essential sector of development in the Asia-Pacific region;

Recognizing that aquaculture plays a vital role in the promotion and better use of fishery resources;

Recognizing that the establishment and maintenance of a network of aquaculture centres in the region can make a significant contribution to the development of aquaculture;

Considering that the success of such a network will depend largely on close regional cooperation;

Considering that cooperation in this field can best be achieved through the establishment of an intergovernmental organization carrying out its activities in collaboration with other governments as well as organizations and institutions that may be able to provide financial and technical support;

Have agreed as follows:

ARTICLE 1

Establishment

The Contracting Parties hereby establish the Organization for the Network of Aquaculture Centres in Asia and the Pacific (NACA) with the objectives and functions set out hereinafter.

ARTICLE 2

Definitions

For the purpose of this Agreement:

"Aquaculture" means the farming of aquatic organisms.

"Donor Government" means a government, other than a Member Government, which makes a substantial contribution to the activities of the Organization and has concluded an agreement pursuant to Article 15 of this Agreement.

"Member" means a government which is a contracting party to this Agreement.

"National Centre" means an aquaculture institution designated by a Member to serve as national focal point for linkage with NACA.

"Organization" means the Organization for the Network of Aquaculture Centres in Asia and the Pacific (NACA).

"Regional centre" means an aquaculture institution in the Asia-Pacific region selected by the Members to serve as a lead centre to share in the regional activities and responsibilities of NACA.

ARTICLE 3

Objectives

1. The objectives of the Organization shall be to assist the Members in their efforts to expand aquaculture development mainly for the purpose of:

(a) increasing production;

(b) improving rural income and employment;

(c) diversifying farm production; and

(d) increasing foreign exchange earnings and savings.

2. In order to facilitate the achievement of the foregoing objectives, the Organization shall:

(a) consolidate the establishment of an expanded network of aquaculture centres to share the responsibility of research, training and information exchange essential to aquaculture development in the region;

(b) strengthen institutional and personal links among national and regional centres through the exchange of technical personnel, technical know-how and information;

(c) promote regional self-reliance in aquaculture development through Technical Cooperation among Developing Countries (TCDC); and

(d) promote the role of women in aquaculture development.

ARTICLE 4

Functions

In order to achieve its objectives, the Organization shall:

(a) conduct disciplinary and interdisciplinary research on selected aquafarming systems for adaptation or improvement of technologies, and for the development of new technologies;

(b) train and upgrade core personnel needed for national aquaculture planning, research, training, extension and development;

(c) establish a regional information system to provide appropriate information for development planning, research and training;

(d) assist Members in strengthening their national centres linked to the regional centres;

(e) assist the national centres of Members in testing and adapting existing technology to local requirements and in the training of technicians, extension workers and farmers at the national level;

(f) transfer to the Members appropriate aquaculture technologies and techniques developed at regional centres;

(g) facilitate the exchange of national experts, technical know-how and information within the framework of TCDC;

(h) develop programmes for the promotion of women's' participation in aquaculture development at all levels;

(i) assist Members in feasibility studies and project formulation; and

(j) undertake such other activities related to the objectives of the Organization as may be approved by the Governing Council.

ARTICLE 5

Seat

1. The Seat of the Organization shall be determined by the Governing Council, subject to the consent of the Member concerned.

2. The Host Government shall provide free of charge or at a nominal rent, such accommodation and facilities as are necessary for the efficient conduct of work at the Seat of the Organization.

3. If necessary, the Governing Council may establish subsidiary offices, subject to the consent of the Members concerned; in so doing account should be taken of the possibility of utilizing accommodation in existing centres.

ARTICLE 6

Membership

1. The Members of the Organization shall be the Contracting Parties to this Agreement.

2. The original Members of the Organization shall be the Governments in Asia and the Pacific invited to the

Conference of Plenipotentiaries at which this Agreement was adopted, which have ratified the Agreement or have acceded thereto. A list of invited Governments is given in Annex to this Agreement.

3. The Governing Council of the Organization may, by a majority of not less than two-thirds of the Members, authorize any Government not referred to in paragraph 2 above, which has submitted an application for membership, to accede to this Agreement as in force at the time of accession, in accordance with Article 16, paragraph 3.

ARTICLE 7

Rights and Obligations of Members

1. Members shall, in accordance with this Agreement, have the right:

   (a) to attend the meetings of the Governing Council and other appropriate meetings that may be called by the Organization;

   (b) to obtain on request, free of charge within reasonable limits, information available within the Organization, on matters of their concern, including guidelines for obtaining technical assistance, and collaboration in the study of their problems; and

   (c) to receive free of charge publications and other information that may be distributed by the Organization.

2. Members shall, in accordance with this Agreement, have the following obligations:

   (a) to settle their financial obligations towards the Organization;

   (b) to collaborate in determining the technical activities of the Organization;

   (c) to provide, promptly, information reasonably requested by the Organization, to the extent that this is not contrary to any laws or regulations of the Member;

   (d) to undertake assignments that may be mutually agreed between individual Members or groups of Members and the Organization;

   (e) to accord to the Organization and its Members, in so far as it may be possible under the constitutional procedures of the respective Members, facilities which are deemed essential for the successful functioning of the Organization; and

   (f) to collaborate, in general, in the fulfilment of the objectives and functions of the Organization.

ARTICLE 8

The Governing Council

1. The Organization shall have a Governing Council on which each Member shall be represented. The Governing Council shall be the supreme body of the Organization.

2. The Governing Council shall adopt its own Rules of Procedure.

3. The Governing Council shall hold an annual session at such time and place as it shall determine.

4. Special sessions of the Governing Council may be convened by the Coordinator at the request of not less than two-thirds of the Members.

5. The Governing Council may, in its Rules of Procedure, establish a procedure whereby the Chairman of the Governing Council may obtain a vote of the Members on a specific question without convening a meeting of the Council.

6. The Governing Council shall elect its Chairman and other officers.

7. Each Member shall have one vote. Unless otherwise provided in this Agreement, decisions of the Governing Council shall be taken by a majority of the votes cast. A majority of the Members shall constitute a quorum.

8. The Food and Agriculture Organization of the United Nations (FAO) shall be invited to be represented at meetings of the Governing Council in an advisory capacity.

9. Donor Governments may be represented at meetings of the Governing Council in accordance with an agreement concluded with the Organization under Article 15 of this Agreement.

ARTICLE 9

Functions of the Governing Council

1. The functions of the Governing Council shall be:

(a) to determine the policy of the Organization and to approve by a majority of not less than two-thirds of the Members its programme of work and its budget, giving due consideration to the conclusions and recommendations of the Technical Advisory Committee referred to in Article 11;

(b) to assess, by a majority of not less than two-thirds of the Members, the contribution of Members as provided in Article 13;

(c) to establish special funds to enable the acceptance of additional resources for the development of programmes and projects;

(d) to lay down general standards and guidelines for the management of the Organization;

(e) to evaluate the progress of work and activities of the Organization including the auditing of accounts, in accordance with policies and procedures established for the purpose by the Governing Council, and to give guidance to the Coordinator on the implementation of its decisions;

(f) to formulate and adopt the Financial Regulations and the Administrative Regulations, and to appoint auditors;

(g) to appoint the Coordinator of the Organization and to determine his conditions of service;

(h) to adopt rules governing the settlement of disputes, referred to in Article 19;

(i) to approve formal arrangements with governments as well as other organizations or institutions, including any headquarters agreement concluded between the Organization and the Host Government;

(j) to adopt the Staff Regulations which determine the general terms and conditions of employment of the staff;

(k) to approve agreements for cooperation to be concluded pursuant to Article 15; and

(l) to perform all other functions that have been entrusted to it by this Agreement or that are ancillary to the accomplishment of the approved activities of the Organization.

ARTICLE 10

Observers

Non-member Governments, organizations and institutions that are able to make a significant contribution to the activities of the Organization may, in accordance with the Rules of Procedure adopted under Article 8, paragraph 2, be invited to be represented at sessions of the Governing Council as observers.

ARTICLE 11

Technical Advisory Committee

1. The Governing Council shall establish a Technical Advisory Committee composed of one representative designated by each Member of the Organization.

2. The representatives designated on the Technical Advisory Committee shall be persons with special competence and expertise in the field of aquaculture.

3. The Technical Advisory Committee shall meet at least once a year and at any time at the request of the Governing Council.

4. At its annual meeting the Committee shall designate one of the Committee members as Chairman who shall convene the next annual meeting of the Technical Advisory Committee.

5. The Technical Advisory Committee shall advise the Governing Council on all technical aspects of the activities of the Organization.

6. At each session, the Technical Advisory Committee shall adopt a report, which shall be submitted to the Governing Council.

7. FAO shall be invited to be represented at Sessions of the Technical Advisory Committee. Where appropriate, representatives of Donor Governments and of other organizations or institutions shall also be invited to be represented at such sessions.

ARTICLE 12

Coordinator and Staff

1. The Organization shall have a Coordinator appointed by the Governing Council.

2. The Coordinator shall be the legal representative of the Organization. He shall direct the work of the Organization under the guidance of the Governing Council in accordance with its policies and decisions.

3. The Coordinator shall submit to the Governing Council at each regular session:

   (a) a report on the work of the Organization, as well as the audited accounts; and

   (b) . a draft programme of work and a draft budget for the following year.

4. The Coordinator shall:

   (a) prepare and organize the sessions of the Governing Council and all other meetings of the Organization and shall provide the secretariat therefor;

(b) ensure coordination among Members of the Organization;

(c) organize conferences, symposia, regional training programmes and other meetings in accordance with the approved programme of work;

(d) initiate proposals for joint action programmes with regional and other international bodies;

(e) be responsible for the management of the Organization;

(f) ensure the publication of research findings, training manuals, information print-outs and other materials as required;

(g) take action on other matters consistent with the objectives of the Organization; and

(h) perform any other function as may be specified by the Governing Council.

5. Staff members and consultants shall be appointed by the Coordinator in accordance with the policy, general standards and guidelines laid down by the Governing Council and in accordance with the Staff Regulations. The Coordinator shall promulgate Staff Rules, as required, to implement the foregoing.

ARTICLE 13

Finances

1. The financial resources of the Organization shall be:

(a) the contributions of the Members to the budget of the Organization;

(b) the revenue obtained from the provisions of services against payment;

(c) donations, provided that acceptance of such donations is compatible with the objectives of the Organization; and

(d) such other resources as are approved by the Governing Council and compatible with the objectives of the Organization.

2. Members undertake to pay annual contributions in freely convertible currencies to the regular budget of the Organization.

3. A Member which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Governing Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Governing Council may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.

4. Unless otherwise agreed by the consensus of the Members of the Organization, each Member's financial liability to the Governing Council and to other Members and for the acts of omission and commission of the Governing Council shall be limited to the extent of its obligation to make contributions to the budget of the Organization.

ARTICLE 14

Legal Status, Privileges and Immunities

1. The Organization shall have juridical personality and such legal capacity as may be necessary for the fulfilment of the Organization's objectives and for the exercise of its functions.

2. The Organization shall be accorded the privileges and immunities necessary to perform its functions provided for in this Agreement. In addition, the representatives of Members and the Coordinator and staff of the Organization shall be accorded the privileges and immunities necessary for the independent exercise of their functions with the Organization as generally accorded to international organizations in each country.

3. Each Member shall accord the status, privileges and immunities referred to above by applying, *mutatis mutandis,* to the Organization, the representatives of Members, and to the Coordinator and staff of the Organization the privileges and immunities provided for in the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947.

4. Privileges and immunities are accorded to the representatives of Members and to the Coordinator and staff of the Organization not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Organization. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded. If the Member does not waive the immunity of the representative, the Member shall make the strongest efforts to achieve an equitable solution of the matter. Similarly, the Coordinator not only has the right, but is under a duty to waive the immunity of a staff member where, in the opinion of the Coordinator, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded. If the Coordinator does not waive the immunity of the staff member, he shall make the strongest efforts to achieve an equitable solution of the matter. The immunity of the Coordinator may only be waived by the Governing Council.

5. The Organization shall conclude a headquarters agreement with the Host Government, and may conclude agreements with other states in which offices of the Organization may be located, specifying the privileges and immunities and facilities to be enjoyed by the Organization to enable it to fulfil its objectives and to perform its functions.

ARTICLE 15

Cooperation with Donor Governments and with other Organizations and Institutions

1. The Contracting Parties agree that there should be a close working relationship between the Organization and the Food and Agriculture Organization of the United Nations (FAO). To this end, the Organization shall enter into negotiations with FAO with a view to concluding an agreement pursuant to Article XIII of the FAO Constitution.

2. The Contracting Parties agree that there should be cooperation between the Organization and Donor Governments whose contribution would further the activities of the Organization. To this end, the Organization may enter into agreements with such Donor Governments wherein provision may be made for their participation in certain activities of the Organization.

3. The Contracting Parties agree that there should be cooperation between the Organization and other international organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Organization. The Organization may enter into agreements with such organizations and institutions. Such agreements may include, if appropriate, provision for participation by such organizations and institutions in activities of the Organization.

ARTICLE 16

Signature, Ratification, Accession, Entry into Force and Admission

1. This Agreement shall be open for signature by the Governments in Asia and the Pacific listed in the Annex hereto, in Bangkok on 8th January 1988 and thereafter, at the Headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome until 7th January 1989. Governments which have signed the

Agreement may become a party thereto by depositing an instrument of ratification. Governments which have not signed the Agreement may become a party thereto by depositing an instrument of accession.

2. Instruments of ratification or accession shall be deposited with the Director-General of FAO, who shall be the Depositary of this Agreement.

3. Subject to Article 6, paragraph 3 of this Agreement, and at any time after the entry into force thereof, any Government not referred to in paragraph 1 above may apply to the Director-General of FAO to become a Member of the Organization. The Director-General of FAO shall inform Members of such application. The Governing Council shall then decide on the application in accordance with Article 6 and if a favourable decision is taken, invite the Government concerned to accede to this Agreement. The Government shall lodge its instrument of accession, whereby it consents to be bound by the provisions of this Agreement as from the date of its admission, with the Director-General of FAO within ninety days of the date of the invitation by the Governing Council.

4. This Agreement shall enter into force, with respect to all Governments which have ratified it or acceded thereto, on the date when instruments of ratification or accession have been deposited by at least five Governments listed in the Annex.

ARTICLE 17

Amendment

1. The Governing Council may amend this Agreement by a three-quarters majority of the Members. Amendments shall take effect, with respect to all Contracting Parties, on the thirtieth day after their adoption by the Governing Council, except for any Contracting Party which gives notice of withdrawal within thirty days of receipt of notification of the adoption of such amendments, subject to the condition that any obligation incurred by the Member vis-à-vis the Organization shall remain valid and enforceable. Amendments adopted shall be notified to the Depositary forthwith.

2. Proposals for the amendment of this Agreement may be made by a Member in a communication to the Depositary, who shall promptly notify the proposal to all Members and to the Coordinator of the Organization.

3. No proposal for amendment shall be considered by the Governing Council unless it was received by the Depositary at least one hundred and twenty days before the opening day of the session at which it is to be considered.

ARTICLE 18

Withdrawal and Dissolution

1. At any time after the expiration of three years from the date when it became a party to this Agreement, any Member may give notice of its withdrawal from the Organization to the Depositary. Such withdrawal shall take effect twelve months after the notice thereof was received by the Depositary or at any later date specified in the notice, provided, however, that any obligation incurred by the Member vis-à-vis the Organization shall remain valid and enforceable.

2. The Organization shall cease to exist at any time decided by the Governing Council by a three-quarters majority of the Members. The disposal of any real property belonging to the Organization shall be subject to the prior approval of the Governing Council. Any assets remaining after the land, buildings and fixtures have been disposed of, after the balance of any donated funds that have not been used has been returned to the respective donors, and after all obligations have been met, shall be distributed among the Governments which were Members of the Organization at the time of the dissolution, in proportion to the contributions that they made, in accordance with Article 13, paragraph 2, for the year preceding the year of the dissolution.

ARTICLE 19

Interpretation and Settlement of Disputes

1. Any dispute concerning the interpretation of application of this Agreement which cannot be settled by negotiation, conciliation or similar means may be referred by any party to the dispute to the Governing Council for its recommendation. Failing settlement of the dispute, the matter shall be submitted to an arbitral tribunal consisting of three arbitrators. The parties to the dispute shall appoint one arbitrator each; the two arbitrators so appointed shall designate by mutual consent the third arbitrator, who shall be the President of the tribunal. If one of the Parties does not appoint an arbitrator within two months of the appointment of the first arbitrator, or if the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Chairman of the Governing Council shall designate the arbitrator or the President, as the case may be, within a further two-month period.

2. The proceedings of the arbitral tribunal shall be carried out in accordance with the rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. A Member which fails to abide by an arbitral award rendered in accordance with paragraph 1 of this Article may be suspended from the exercise of the rights and privileges of membership by a two-thirds majority of the Members.

ARTICLE 20

Depositary

The Director-General of FAO shall be the Depositary of this Agreement. The Depositary shall:

(a) send certified copies of this Agreement to the Governments invited as participants to the Conference of Plenipotentiaries, and to any other Government which so requests;

(b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;

(c) inform the Governments invited as participants to the Conference of Plenipotentiaries and any Government that has been admitted to membership in the Organization of:

(i) the signature of this Agreement and the deposit of instruments of ratification or accession in accordance with Article 16;

(ii) the date of entry into force of this Agreement in accordance with Article 16, paragraph 4;

(iii) notification of the desire of a Government to be admitted to membership in the Organization; and admissions, in accordance with Article 6;

(iv) proposals for the amendment of this Agreement and of the adoption of amendments, in accordance with Article 17; and

(d) convene the first session of the Governing Council of the Organization within six months after the entry into force of this Agreement, in accordance with Article 16, paragraph 4.

ARTICLE 21

Annex

The Annex shall constitute an integral part of this Agreement.

DONE AT BANGKOK this eighth day of January 1988 in a single copy in the English language. The original text shall be deposited in the archives of the Food and Agriculture Organization of the United Nations in Rome.

FOR AUSTRALIA
FOR BANGLADESH
FOR BHUTAN
FOR BRUNEI
FOR BURMA
FOR PEOPLE'S REPUBLIC OF CHINA: Li Dacheng
FOR COOK ISLANDS
FOR DEMOCRATIC KAMPUCHEA
FOR DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA: Sim Song Chol
FOR FIJI
FOR FRANCE
FOR HONG KONG
FOR INDIA
FOR INDONESIA
FOR JAPAN
FOR REPUBLIC OF KOREA
FOR LAOS
FOR MALAYSIA
FOR MALDIVES
FOR MONGOLIA
FOR NEPAL: Bharat Prasad Sharma
FOR NEW ZEALAND
FOR PAKISTAN
FOR PAPUA NEW GUINEA
FOR PHILIPPINES
FOR SAMOA
FOR SINGAPORE
FOR SOLOMON ISLANDS
FOR SRI LANKA
FOR THAILAND
FOR TONGA
FOR TUVALU
FOR UNITED STATES OF AMERICA
FOR VANUATU
FOR VIETNAM

ANNEX TO THE AGREEMENT

LIST OF GOVERNMENTS INVITED TO THE CONFERENCE OF PLENIPOTENTIARIES

(Article 6, paragraph 2)

Australia
Bangladesh
Bhutan
Brunei
Burma
People's Republic of China
Cook Islands
Democratic Kampuchea
Democratic People's Republic of Korea
Fiji
France
Hong Kong
India
Indonesia
Japan
Republic of Korea
Laos
Malaysia
Maldives
Mongolia
Nepal
New Zealand
Pakistan
Papua New Guinea
Philippines
Samoa
Singapore
Solomon Islands
Sri Lanka
Thailand
Tonga
Tuvalu
United States of America
Vanuatu
Viet Nam

Agreement for the Establishment of the Indian Ocean Tuna Commission, Rome, 1993

Done at Rome 25 November 1993

Entered into force 27 March 1996

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

PREAMBLE

The Contracting Parties,

Recognizing the desirability of promoting the peaceful uses of the seas and oceans, and the equitable and efficient utilization and conservation of their living resources,

Desiring to contribute to the realization of a just and equitable international economic order, with due regard to the special interests and needs of developing countries,

Desiring to cooperate with a view to ensuring the conservation of tuna and tuna-like species in the Indian Ocean and promoting their optimum utilization, and the sustainable development of the fisheries,

Recognizing, in particular, the special interests of developing countries in the Indian Ocean Region to benefit equitably from the fishery resources,

Considering the United Nations Convention on the Law of the Sea opened for signature on 10 December 1982 and, in particular, Articles 56, 64 and 116 to 119 thereof,

Considering that the conservation of tuna and tuna-like species and the sustainable and rational utilization of tuna resources in the Indian Ocean would be greatly enhanced by the establishment of cooperative measures by both the coastal states of the Indian Ocean and other States whose nationals harvest tuna and tuna-like species in the region,

Bearing in mind the Western Indian Ocean Tuna Organization Convention which was opened for signature on 19 June 1991,

Considering that the aforementioned objectives could best be achieved through the establishment of a Commission set up under Article XIV of the Constitution of the Food and Agriculture Organization of the United Nations,

Have agreed as follows:

Article I

ESTABLISHMENT

The Contracting Parties hereby agree to establish the Indian Ocean Tuna Commission (hereinafter referred to as the "Commission") within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "FAO").

Article II

AREA OF COMPETENCE

The area of competence of the Commission (hereinafter referred to as the "Area") shall be the Indian Ocean (defined for the purpose of this Agreement as being FAO statistical areas 51 and 57 as shown on the map set out in Annex A to this Agreement) and adjacent seas, north of the Antarctic Convergence, insofar as it is necessary to cover such seas for the purpose of conserving and managing stocks that migrate into or out of the Indian Ocean.

Article III

SPECIES AND STOCKS

The species covered by this Agreement shall be those set out in Annex B. The term "stocks" means the populations of such species which are located in the Area or migrate into or out of the Area.

Article IV

MEMBERSHIP

1. Membership in the Commission shall be open to Members and Associate Members of FAO

   (a) that are:

      (i) coastal States or Associate Members situated wholly or partly within the Area;

      (ii) States or Associate Members whose vessels engage in fishing in the Area for stocks covered by this Agreement; or

      (iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

      and

   (b) that accept this Agreement in accordance with the provisions of paragraph 1 of Article XVII.

2. The Commission may, by a two-thirds majority of its Members, admit to membership any other States that are not Members of FAO, but are Members of the United Nations, or of any of its Specialized Agencies or of the International Atomic Energy Agency, provided that such States:

   (a) are

(i) coastal States situated wholly or partly within the Area; or

(ii) States whose vessels engage in fishing in the Area for stocks covered by this Agreement; and

(b) have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of acceptance in accordance with paragraph 2 of Article XVII.

3. With a view to furthering the objectives of this Agreement, the Members of the Commission shall cooperate with each other to encourage any State or regional economic integration organization which is entitled to become, but is not yet, a Member of the Commission, to accede to this Agreement.

4. If any Member of the Commission ceases to meet the criteria set out in paragraphs 1 or 2 above for two consecutive calendar years, the Commission may, after consultation with the Member concerned, determine that the Member is deemed to have withdrawn from this Agreement effective as from the date of that determination.

5. For the purposes of this Agreement, the term "whose vessels" in relation to a Member Organization means vessels of a Member State of such Member Organization.

6. Nothing in this Agreement, nor any act or activity carried out in pursuance of this Agreement, shall be interpreted as changing or in any way affecting the position of any party to this Agreement with respect to the legal status of any area covered by this Agreement.

Article V

OBJECTIVES, FUNCTIONS AND RESPONSIBILITIES OF THE COMMISSION

1. The Commission shall promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by this Agreement and encouraging sustainable development of fisheries based on such stocks.

2. In order to achieve these objectives, the Commission shall have the following functions and responsibilities, in accordance with the principles expressed in the relevant provisions of the United Nations Convention on the Law of the Sea:

(a) to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by this Agreement;

(b) to encourage, recommend, and coordinate research and development activities in respect of the stocks and fisheries covered by this Agreement, and such other activities as the Commission may decide appropriate, including activities connected with transfer of technology, training and enhancement, having due regard to the need to ensure the equitable participation of Members of the Commission in the fisheries and the special interests and needs of Members in the region that are developing countries;

(c) to adopt, in accordance with Article IX and on the basis of scientific evidence, conservation and management measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilization throughout the Area;

(d) to keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal states;

(e) to consider and approve its programme and autonomous budget, as well as the accounts for the past budgetary period;

(f) to transmit to the Director-General of FAO (hereinafter referred to as the "Director-General") reports on its activities, programme, accounts and autonomous budget and on such other matters as may be appropriate for action by the Council or the Conference of FAO;

(g) to adopt its own Rules of Procedure, Financial Regulations and other internal administrative regulations as may be necessary to carry out its functions; and

(h) to carry out such other activities as may be necessary to fulfil its objectives as set out above.

3. The Commission may adopt decisions and recommendations, as required, with a view to furthering the objectives of this Agreement.

Article VI

SESSIONS OF THE COMMISSION

1. Each Member of the Commission shall be represented at sessions of the Commission by a single delegate who may be accompanied by an alternate and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Commission but may not vote, except in the case of an alternate who is duly authorized to substitute for the delegate.

2. Each Member of the Commission shall have one vote. Unless otherwise provided in this Agreement, decisions and recommendations of the Commission shall be taken by a majority of the votes cast. A majority of the Members of the Commission shall constitute a quorum.

3. The Commission may adopt and amend, as required, its own Rules of Procedure by a two-thirds majority of its Members, which Rules shall not be inconsistent with this Agreement or with the Constitution of FAO.

4. The Chairperson of the Commission shall convene an annual regular session of the Commission.

5. Special sessions of the Commission may be convened by the Chairperson of the Commission at the request of at least one-third of its Members.

6. The Commission shall elect its Chairperson and no more than two Vice-Chairpersons, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. In electing the Chairperson and the Vice-Chairpersons the Commission shall pay due regard to the need for an equitable representation from among the Indian Ocean States.

7. The Commission may adopt and amend, as required, the Financial Regulations of the Commission by a two-thirds majority of its Members, which Financial Regulations shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO.

8. In order to ensure close cooperation between the Commission and FAO, FAO shall have the right to participate without vote in all meetings of the Commission and subsidiary bodies established in accordance with paragraph 5 of Article XII.

Article VII

OBSERVERS

1. Any Member or Associate Member of FAO that is not a Member of the Commission may, upon its request, be invited to be represented by an observer at sessions of the Commission. It may submit memoranda and participate without vote in the discussions.

2. States which, while not Members of the Commission nor Members or Associate Members of FAO, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may,

upon request and subject to the concurrence of the Commission through its Chairperson and to the provisions relating to the granting of observer status to nations adopted by the Conference of FAO, be invited to attend sessions of the Commission as observers.

3. The Commission may invite intergovernmental or, on request, non-governmental organizations having special competence in the field of activity of the Commission to attend such of its meetings as the Commission may specify.

Article VIII

ADMINISTRATION

1. The Secretary of the Commission (hereinafter referred to as the "Secretary") shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Members of the Commission. The staff of the Commission shall be appointed by the Secretary and shall be under the Secretary's direct supervision. The Secretary and staff of the Commission shall be appointed under the same terms and conditions as staff members of FAO; they shall, for administrative purposes, be responsible to the Director-General.

2. The Secretary shall be responsible for implementing the policies and activities of the Commission and shall report thereon to the Commission. The Secretary shall also act as Secretary to other subsidiary bodies established by the Commission, as required.

3. The expenses of the Commission shall be paid out of its autonomous budget except those relating to such staff and facilities as can be made available by FAO. The expenses to be borne by FAO shall be determined and paid within the limits of the biennial budget prepared by the Director-General and approved by the Conference of FAO in accordance with the General Rules and the Financial Regulations of FAO.

4. Expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission, its sub-commissions and its committees, as well as the expenses incurred by observers at sessions, shall be borne by the respective governments or organizations. The expenses of experts invited by the Commission to attend, in their individual capacity, meetings of the Commission or its sub-commissions or committees shall be borne by the budget of the Commission.

Article IX

PROCEDURES CONCERNING CONSERVATION AND MANAGEMENT MEASURES

1. Subject to paragraph 2, the Commission may, by a two-thirds majority of its Members present and voting, adopt conservation and management measures binding on Members of the Commission in accordance with this Article.

2. Conservation and management measures for stocks for which a sub-commission has been established under paragraph 2 of Article XII, shall be adopted upon the proposal of the sub-commission concerned.

3. The Secretary shall, without undue delay, notify the Members of the Commission of any conservation and management measures adopted by the Commission.

4. Subject to paragraphs 5 and 6, conservation and management measures adopted by the Commission under paragraph 1, shall become binding on Members 120 days from the date specified in the Secretary's notification or on such other date as may be specified by the Commission.

5. Any Member of the Commission may, within 120 days from the date specified or within such other period as may be specified by the Commission under paragraph 4, object to a conservation and management measure

adopted under paragraph 1. A Member of the Commission which has objected to a measure shall not be bound thereby. Any other Member of the Commission may similarly object within a further period of 60 days from the expiry of the 120-day period. A Member of the Commission may also withdraw its objection at any time and become bound by the measure immediately if the measure is already in effect or at such time as it may come into effect under this article.

6. If objections to a measure adopted under paragraph 1 are made by more than one-third of the Members of the Commission, the other Members shall not be bound by that measure; but this shall not preclude any or all of them from giving effect thereto.

7. The Secretary shall notify each Member of the Commission immediately upon receipt of each objection or withdrawal of objection.

8. The Commission may, by a simple majority of its Members present and voting, adopt recommendations concerning conservation and management of the stocks for furthering the objectives of this Agreement.

Article X

IMPLEMENTATION

1. Each Member of the Commission shall ensure that such action is taken, under its national legislation, including the imposition of adequate penalties for violations, as may be necessary to make effective the provisions of this Agreement and to implement conservation and management measures which become binding on it under paragraph 1 of Article IX.

2. Each Member of the Commission shall transmit to the Commission an annual statement of the actions it has taken pursuant to paragraph 1. Such statement shall be sent to the Secretary of the Commission not later than 60 days before the date of the following regular session of the Commission.

3. The Members of the Commission shall cooperate, through the Commission, in the establishment of an appropriate system to keep under review the implementation of conservation and management measures adopted under paragraph 1 of Article IX, taking into account appropriate and effective tools and techniques to monitor the fishing activities and to gather the scientific information required for the purposes of this Agreement.

4. The Members of the Commission shall cooperate in the exchange of information regarding any fishing for stocks covered by this Agreement by nationals of any State or entity which is not a Member of the Commission.

Article XI

INFORMATION

1. The Members of the Commission shall, on the request of the Commission, provide such available and accessible statistical and other data and information as the Commission may require for the purposes of this Agreement. The Commission shall decide the scope and form of such statistics and the intervals at which they shall be provided. The Commission shall also endeavour to obtain fishing statistics from fishing States or entities which are not Members of the Commission.

2. Each Member of the Commission shall provide to the Commission copies of laws, regulations and administrative instructions in force or, where appropriate, summaries thereof, relating to the conservation and management of stocks covered by this Agreement and shall inform the Commission of any amendment or repeal of such laws, regulations and administrative instructions.

Article XII

SUBSIDIARY BODIES

1. The Commission shall establish a permanent Scientific Committee.

2. The Commission may establish sub-commissions to deal with one or more of the stocks covered by this Agreement.

3. Such sub-commissions shall be open to Members of the Commission which are coastal States lying on the migratory path of the stocks concerned in the sub-commission or are States whose vessels participate in the fisheries of these stocks.

4. A sub-commission shall provide a forum for consultation and cooperation on matters related to the management of the stocks concerned and in particular:

(a) to keep under review the stocks concerned and to gather scientific and other relevant information relating to the stocks concerned;

(b) to assess and analyse the conditions and trends of the stocks concerned;

(c) to coordinate research and studies of the stocks concerned;

(d) to report to the Commission on its findings;

(e) to propose such recommendations for action by the Members of the Commission as may be appropriate, including action to obtain necessary information relating to the stocks and proposals for conservation and management measures;

(f) to consider any matter referred to it by the Commission.

5. The Commission may, subject to the provisions of this Article, establish such committees, working parties or other subsidiary bodies as may be necessary for the purposes of this Agreement.

6. The establishment by the Commission of any sub-commission which requires funding by the Commission, and of any committee, working party or other subsidiary body shall be subject to the availability of the necessary funds in the approved autonomous budget of the Commission or of FAO as the case may be. When the related expenses are to be borne by FAO, the determination of such availability shall be made by the Director-General. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies, the Commission shall have before it a report from the Secretary or the Director-General, as appropriate, on the administrative and financial implications.

7. Subsidiary bodies shall provide to the Commission such information regarding their activities as the Commission may require.

Article XIII

FINANCES

1. Each Member of the Commission undertakes to contribute annually its share of the autonomous budget in accordance with a scale of contributions to be adopted by the Commission.

2. At each regular session, the Commission shall adopt its autonomous budget by consensus of its Members provided, however, that if, after every effort has been made, a consensus cannot be reached in the course of that session, the matter will be put to a vote and the budget shall be adopted by a two-thirds majority of its Members.

3. (a) The amount of the contribution of each Member of the Commission shall be determined in accordance with a scheme which the Commission shall adopt and amend by consensus.

(b) In adopting the scheme, due consideration shall be given to each Member being assessed an equal basic fee and a variable fee based, inter alia, on the total catch and landings of species covered by this Agreement in the Area, and the per capita income of each Member.

(c) The scheme adopted or amended by the Commission shall be set out in the Financial Regulations of the Commission.

4. Any non-Member of FAO that becomes a Member of the Commission shall be required to make such contribution towards the expenses incurred by FAO with respect to the activities of the Commission as the Commission may determine.

5. Contributions shall be payable in freely convertible currencies unless otherwise determined by the Commission with the concurrence of the Director-General.

6. The Commission may also accept donations and other forms of assistance from organizations, individuals and other sources for purposes connected with the fulfilment of any of its functions.

7. Contributions and donations and other forms of assistance received shall be placed in a Trust Fund administered by the Director-General in conformity with the Financial Regulations of FAO.

8. A Member of the Commission which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.

Article XIV

HEADQUARTERS

The Commission, after consultation with the Director-General, shall determine the place of its headquarters.

Article XV

COOPERATION WITH OTHER ORGANIZATIONS AND INSTITUTIONS

1. The Commission shall cooperate and make appropriate arrangements therefore with other intergovernmental organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Commission in particular with any intergovernmental organization or institution dealing with tuna in the Area. The Commission may enter into agreements with such organizations and institutions. Such agreements shall seek to promote complementarity and, subject to paragraph 2, to avoid duplication in and conflict with the activities of the Commission and such organizations.

2. Nothing in this Agreement shall prejudice the rights and responsibilities of other intergovernmental organizations or institutions dealing with tuna or a species of tuna in the Area or the validity of any measures adopted by such organization or institution.

Article XVI

COASTAL STATES' RIGHTS

This Agreement shall not prejudice the exercise of sovereign rights of a coastal state in accordance with the international law of the sea for the purposes of exploring and exploiting, conserving and managing the living resources, including the highly migratory species, within a zone of up to 200 nautical miles under its jurisdiction.

Article XVII

ACCEPTANCE

1. Acceptance of this Agreement by any Member or Associate Member of FAO shall be effected by the deposit of an instrument of acceptance with the Director-General.

2. Acceptance of this Agreement by any State referred to in paragraph 2 of Article IV shall be effected by the deposit of an instrument of acceptance with the Director-General. Acceptance shall become effective on the date on which the Commission approves the application for membership.

3. The Director-General shall inform all Members of the Commission, all Members of FAO and the Secretary-General of the United Nations of all acceptances that have become effective.

Article XVIII

ENTRY INTO FORCE

This Agreement shall enter into force as from the date of receipt by the Director-General of the tenth instrument of acceptance. Thereafter, with respect to each Member or Associate Member of FAO or State referred to in paragraph 2 of Article IV which subsequently deposits an instrument of acceptance, this Agreement shall enter into force on the date on which such acceptance takes effect or becomes effective in accordance with Article XVII above.

Article XIX

RESERVATIONS

Acceptance of this Agreement may be made subject to reservations in accordance with the general rules of public international law as reflected in the provisions of Part II, Section 2 of the Vienna Convention on the Law of Treaties of 1969.

Article XX

AMENDMENT

1. This Agreement may be amended by a three-quarters majority of the Members of the Commission.

2. Proposals for amendments may be made by any Member of the Commission or by the Director-General. Proposals made by a Member of the Commission shall be addressed to both the Chairperson of the Commission

and the Director-General and those made by the Director-General shall be addressed to the Chairperson of the Commission, not later than 120 days before the Session of the Commission at which the proposal is to be considered. The Director-General shall immediately inform all Members of the Commission of all proposals for amendments.

3. Any amendment to this Agreement shall be reported to the Council of FAO which may disallow an amendment which is clearly inconsistent with the objectives and purposes of FAO or the provisions of the Constitution of FAO.

4. Amendments not involving new obligations for Members of the Commission shall take effect for all Members from the date of their adoption by the Commission, subject to paragraph 3 above.

5. Amendments involving new obligations for Members of the Commission shall, after adoption by the Commission, subject to paragraph 3 above, come into force in respect of each Member only upon its acceptance thereof. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General. The Director-General shall inform all Members of the Commission and the Secretary-General of the United Nations of such acceptance. The rights and obligations of any Member of the Commission that has not accepted an amendment involving new obligations shall continue to be governed by the provisions of this Agreement in force prior to the Amendment.

6. Amendments to the Annexes to this Agreement may be adopted by a two-thirds majority of the Members of the Commission and shall come into force from the date of approval by the Commission.

7. The Director-General shall inform all Members of the Commission, all Members and Associate Members of FAO and the Secretary-General of the United Nations of the entry into force of any amendment.

Article XXI

WITHDRAWAL

1. Any Member of the Commission may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Members of the Commission and the Members and Associate Members of FAO and the Secretary-General of the United Nations of such withdrawal. Withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

2. A Member of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission, it shall state to which territory or territories the withdrawal is to apply. In the absence of such a statement, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, with the exception of territories belonging to an Associate Member which is a Member of the Commission in its own right.

3. Any Member of the Commission that gives notice of withdrawal from FAO shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, with the exception of territories belonging to an Associate Member which is a Member of the Commission in its own right.

4. Withdrawal may also take place as provided for under paragraph 4 of Article IV.

Article XXII

TERMINATION

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Members of the Commission drops below ten, unless the remaining Members of the Commission unanimously decide otherwise.

Article XXIII

INTERPRETATION AND SETTLEMENT OF DISPUTES

Any dispute regarding the interpretation or application of this Agreement, if not settled by the Commission, shall be referred for settlement to a conciliation procedure to be adopted by the Commission. The results of such conciliation procedure, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it may be referred to the International Court of Justice in accordance with the Statute of the International Court of Justice, unless the parties to the dispute agree to another method of settlement.

Article XXIV

DEPOSITARY

The Director-General shall be the Depositary of this Agreement. The Depositary shall:

(a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-Member States as may become party to this Agreement;

(b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;

(c) inform each Member and Associate Member of FAO which has accepted this Agreement and any non-Member State which has been admitted to membership in the Commission of:

  (i) the application of a non-Member State to be admitted to membership in the Commission;

  (ii) proposals for the amendment of this Agreement or of the Annexes thereto;

(d) inform each Member and Associate Member of FAO and any non-Member States as may become party to this Agreement of:

  (i) the deposit of instruments of acceptance in accordance with Article XVII;

  (ii) the date of entry into force of this Agreement in accordance with Article XVIII;

  (iii) reservations made to this Agreement in accordance with Article XIX;

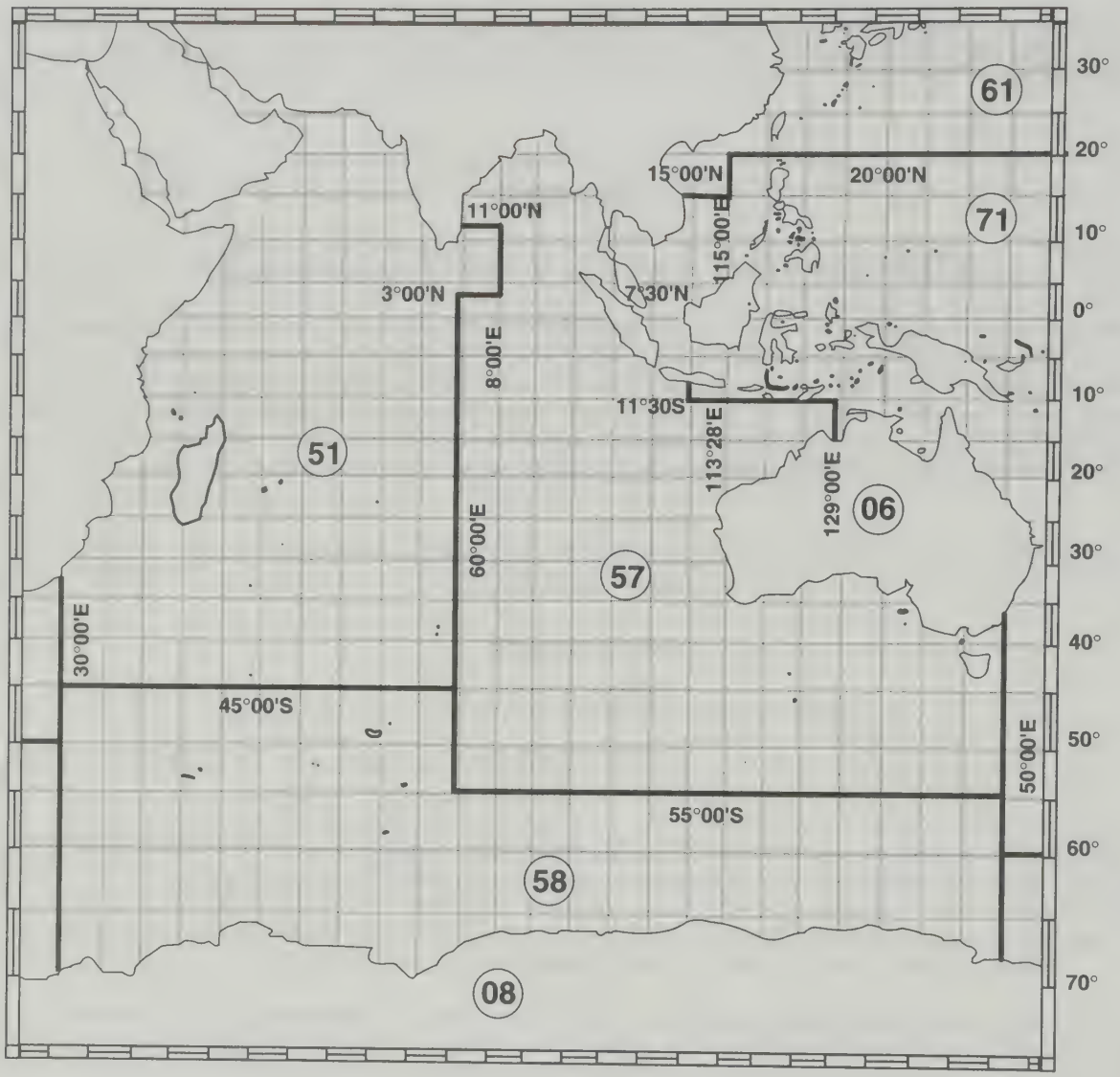
  (iv) the adoption of amendments to this Agreement in accordance with Article XX;

  (v) withdrawals from this Agreement pursuant to Article XXI; and

  (vi) termination of this Agreement in accordance with Article XXII.

ANNEX A

FAO Fishing Areas in the Indo-Pacific



	FAO English name	FAO French name	FAO Spanish name	Scientific name
1.	Yellowfin tuna	Albacore	Rabil	*Thunnus albarcares*
2.	Skipjack tuna	Listao	Listado	*Katsuwonus pelamis*
3.	Bigeye tuna	Thon obèse	Patudo	*Thunnus obesus*
4.	Albacore	Germon	Atún blanco	*Thunnus alalunga*
5.	Southern bluefin tuna	Thon rouge du sud	Atún del sur	*Thunnus maccoyii*
6.	Longtail tuna	Thon mignon	Atún tongol	*Thunnus tonggol*
7.	Kawakawa	Thonine orientale	Bacoreta oriental	*Euthynnus affinis*
8.	Frigate tuna	Auxide	Melva	*Auxis thazard*
9.	Bullei tuna	Bonite	Melva (=Melvera)	*Auxis rochei*
10.	Narrow-barred Spanish mackerel	Thazard rayé (Indo-Pacifique)	Carite estriado (Indo-Pacífico)	*Scomberomorus commerson*
11.	Indo-Pacific king mackerel	Thazard ponctué (Indo-Pacifique)	Carite (Indo-Pacífico)	*Scomberomorus guttatus*
12.	Indo-Pacific blue marlin	Thazard bleu (Indo-Pacifique)	Aguja azul (Indo-Pacífico)	*Makaira mazara*
13.	Black marlin	Makaire noir	Aguja negra	*Makaira indica*
14.	Striped marlin	Marlin rayé	Marlín rayado	*Tetrapturus audax*
15.	Indo-Pacific sailfish	Voilier (Indo-Pacifique)	Pez vela (Indo-Pacífico)	*Istiophorus platypterus*
16.	Swordfish	Espadon	Pez espada	*Xiphias gladius*

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 1995

Done at New York 4 August 1995

Entered into force

Depositary: United Nations

Primary source citation: Copy of text provided by the United Nations

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:

(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;

(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In implementing the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7

Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

(f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8

Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9

Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10

Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15

Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16

Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV

NON-MEMBERS AND NON-PARTICIPANTS

Article 17

Non-members of organizations and non-participants in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

DUTIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.

4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.

5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.

6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management

measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.

2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.

4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22

Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

(a) accept and facilitate prompt and safe boarding by the inspectors;

(b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;

(c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;

(d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;

(e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and

(f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 24

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25

Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28

Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31

Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32

Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI

RESPONSIBILITY AND LIABILITY

Article 35

Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII

REVIEW CONFERENCE

Article 36

Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII

FINAL PROVISIONS

Article 37

Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38

Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41

Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45

Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Agreement as so amended; and

(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47

Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and

(b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

(a) at the time of signature or accession, such international organization shall make a declaration stating:

(i) that it has competence over all the matters governed by this Agreement;

(ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and

(iii) that it accepts the rights and obligations of States under this Agreement;

(b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;

(c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48

Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX I

STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1

General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2

Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for longline and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3

Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4

Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5

Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6

Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

(a) position verification through vessel monitoring systems;

(b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and

(d) port sampling.

Article 7

Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

ANNEX II

GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.

2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.

3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.

5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.

6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.

7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.

Agreement for the Establishment of the Asia-Pacific Fishery Commission (formerly the Indo-Pacific Fishery Council) of 26 February 1948, as Amended, Seoul, 1996

Done at Seoul 24 October 1996

Entered into force 7 June 1997

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

AGREEMENT

PREAMBLE

The Contracting Governments having a mutual interest in the development and proper utilization of the living aquatic resources of the Asia-Pacific area and desiring to further the attainment of these ends through international cooperation by the establishment of an Asia-Pacific Fishery Commission, agree as follows:

ARTICLE I

The Commission

1. The contracting Governments agree to establish within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization") a Commission to be known as the Asia-Pacific Fishery Commission, for the purpose of carrying out the functions and duties hereinafter set forth in Article IV.

2. The Members of the Commission shall be such Member Nations and Associate Members of the Organization and such non-member States of the Organization as are Members of the United Nations, or any of its Specialized Agencies or the International Atomic Energy Agency that accept this Agreement in accordance with the provisions of Article X thereof. As regards Associate Members, this Agreement shall, in accordance with the provisions of Article XIV-5 of the Constitution and Rule XXI-3 of the General Rules of the Organization be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.

ARTICLE II

Organization

1. Each Member shall be represented at sessions of the Commission by a single delegate, who may be accompanied by an alternate and by experts and advisers. Participation in sessions of the Commission by alternates, experts and advisers shall not entail the right to vote, except in the place of a delegate during his absence.

2. Each Member shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except when a greater majority is required by this Agreement or by the Rules governing the procedure of the Commission. A majority of the total membership of the Commission shall constitute a quorum.

3. The Commission shall at each regular session elect a Chairman and a Vice Chairman who shall serve until the end of the next regular session.

4. The Chairman of the Commission in consultation with the Director-General of the Organization shall convene a regular session of the Commission at least once in every two years unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in consultation with the Director-General of the Organization.

5. The seat of the Commission shall be at the seat of the Regional Office of the Organization most conveniently situated within the area defined in Article VI.

6. The Organization shall provide the Secretariat for the Commission and the Director-General shall appoint its Secretary, who shall be administratively responsible to him.

7. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Rules of Procedure provided that such Rules of Procedure or the amendments thereto are not inconsistent with this Agreement or with the Constitution of the Organization.

ARTICLE III

Committees and Working Parties

1. There shall be an Executive Committee consisting of the Chairman, the Vice-Chairman, the immediately retired Chairman and two members elected by the Commission. In the unavoidable absence of one or two members of the Executive Committee from a Committee session, the Chairman shall have the power to co-opt the chairman of one or two of the committees which may from time to time be established in accordance with the Rules governing the procedure of the Commission, at his discretion, to substitute the absent Committee member or members for that Committee session only, provided that two permanent members of the Executive Committee shall always be present and that the number of voting members attending the Committee session shall in no case exceed five.

2. The Commission may in addition establish temporary, special or standing committees to study and report on matters pertaining to the purpose of the Commission.

3. The Commission may establish working parties to study and recommend on specific technical problems. These working parties shall be convened by the Director-General of the Organization at such times and places as are in accordance with the objectives for which they were established.

4. The establishment of committees and working parties referred to in paragraphs 2 and 3 above shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization; the determination of such availability shall be made by the Director-General. Before taking any decision involving expenditures in connexion with the establishment of committees and working parties, the Commission shall have before it a report from the Director-General on the administrative and financial implications thereof.

ARTICLE IV

Functions

The purpose of the Commission shall be to promote the full and proper utilization of living aquatic resources by the development and management of fishing and culture operations and by the development of related processing and marketing activities in conformity with the objectives of its Members, and to these ends it shall have the following functions and responsibilities:

(a) to keep under review the state of these resources and of the industries based on them;

(b) to formulate and recommend measures and to initiate and carry out programmes or projects to:

(i) increase the efficiency and sustainable productivity of fisheries and aquaculture;

(ii) conserve and manage resources;

(iii) protect resources from pollution;

(c) to keep under review the economic and social aspects of fishing and aquaculture industries and recommend measures aimed at improving the living and working conditions of fishermen and other workers in these industries and otherwise at improving the contribution of each fishery to social and economic goals;

(d) to promote programmes for mariculture and coastal fisheries enhancement;

(e) to encourage, recommend, coordinate and, as appropriate, undertake training and extension activities in all aspects of fisheries;

(f) to encourage, recommend, coordinate and undertake, as appropriate, research and development activities in all aspects of fisheries;

(g) to assemble, publish or otherwise disseminate information regarding the living aquatic resources and fisheries based on these resources;

(h) to carry out such other activities as may be necessary for the Commission to achieve its purpose as defined above.

ARTICLE V

Reports

The Commission shall transmit after each session to the Director-General of the Organization a report embodying its views, recommendations and decisions, and make such other reports to the Director-General of the Organization as may seem to it necessary or desirable. Reports of the committees and working parties of the Commission provided for in Article III of this Agreement shall be transmitted to the Director-General through the Commission.

ARTICLE VI

Area

The Commission shall carry out the functions and responsibilities set forth in Article IV in the Asia-Pacific Area.

ARTICLE VII

Cooperation with International Bodies

The Commission shall cooperate closely with other international bodies in matters of mutual interest.

ARTICLE VIII

Expenses

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives on committees or working parties established in accordance with Article III of this Agreement shall be determined and paid by their respective governments.

2. The expenses of the Secretariat, including publications and communications, and of the Chairman, Vice-Chairman and the immediately retired Chairman of the Commission and of the other two members of the Executive Committee when performing duties connected with the Commission's work during intervals between its sessions, shall be determined and paid by the Organization within the limits of a biennial budget prepared and approved in accordance with the Constitution, the General Rules and Financial Regulations of the Organization.

3. The expenses of research or development projects undertaken by individual Members of the Commission, whether independently or upon the recommendation of the Commission, shall be determined and paid by their respective governments.

4. The expenses incurred in connexion with activities undertaken in accordance with the provisions of Article IV, paragraphs (e) and (f), unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Cooperative projects shall be submitted to the Council of the Organization prior to implementation. Contributions for cooperative projects shall be paid into a trust fund to be established by the Organization and shall be administered by the Organization in accordance with the Financial Regulations and Rules of the Organization.

5. The expenses of experts invited, with the concurrence of the Director-General, to attend meetings of the Commission, committees or working parties in their individual capacity shall be borne by the budget of the Organization.

ARTICLE IX

Amendments

The Commission may amend this Agreement by a two-thirds majority of all the Members of the Commission. Amendments to this Agreement shall be reported to the Council of the Organization which shall have the power to disallow them if it finds that such amendments are inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council of the Organization considers it desirable, it may refer these amendments to the Conference of the Organization which shall have the same power. However, any amendment involving new obligations for Members shall come into force with respect to each Member only on acceptance of it by that Member. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization, who shall inform all the Members of the Commission as well as the Secretary-General of the United Nations of the receipt of acceptances and the entry into force of such amendments. The rights and obligations of any Member of the Commission that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

ARTICLE X

Acceptance

1. This Agreement shall be open to acceptance by Member Nations and Associate Members of the Organization.

2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are Members of the United Nations, of any of its Specialized Agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission. Participation by such States in the activities of the Commission shall be contingent upon the assumption of a proportionate share in the expenses of the Secretariat, as determined by the Organization.

3. Acceptance of this Agreement by any Member Nation or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.

4. Acceptance of this Agreement by non-member nations of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.

5. The Director-General of the Organization shall inform all Members of the Commission, all Member Nations of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

6. Acceptance of this Agreement may be made subject to reservations, which shall become effective only upon unanimous approval by the Members of the Commission. The Director-General of the Organization shall notify forthwith all Members of the Commission of any reservations. Members of the Commission not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval the nation making the reservation shall not become a party to this Agreement.

ARTICLE XI

Entry into Force

This Agreement shall enter into force upon the date of receipt of the fifth instrument of acceptance.

ARTICLE XII

Territorial Application

The Members of the Commission shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article XIII below, the scope of the territorial application may be modified by a subsequent declaration.

ARTICLE XIII

Withdrawal

1. Any Member may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Member, by giving the written notice of such withdrawal to the Director-General of the Organization, who shall immediately inform of such withdrawal all the Members of the Commission and the Member Nations of the Organization as well as the Secretary-General of the United Nations. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General.

2. A Member of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission, it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

3. Any Member of the Commission that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

ARTICLE XIV

Interpretation and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement, if not settled by the Commission, shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court, unless the parties to the dispute agree to another method of settlement.

ARTICLE XV

Termination

This Agreement shall be considered terminated if and when the number of Members of the Commission drops below five unless the remaining Members of the Commission unanimously decide otherwise.

ARTICLE XVI

Certification and registration

The text of this Agreement was originally formulated at Baguio the 26th day of February one thousand nine hundred and forty-eight, in the English language. Two copies in the English and French languages of this Agreement as amended shall be certified by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each Member Nation of the Organization and to such non-member nations of the Organization that may become parties to this Agreement.

RULES OF PROCEDURE

RULE I

For the purpose of these Rules, the following definitions apply:

Agreement: The Agreement for the Establishment of the Asia-Pacific Fishery Commission formulated at Baguio, Philippines, 26th February 1948 as amended in conformity with Article IX thereof

Commission: The Asia-Pacific Fishery Commission

Chairman: The Chairman of the Commission

Delegate: The representative of a Member as specified in Article II-1 of the Agreement

Delegation: The delegate and his alternate, experts and advisers

Member: Member Nations and Associate Members of the Organization and non-member states of the Organization that are Members of the United Nations, or any of its Specialized Agencies or the International Atomic Energy Agency

Secretary: The Secretary of the Commission

Organization: The Food and Agriculture Organization

Conference: The Conference of the Organization

Director-General: The Director-General of the Organization

Observer Nation, Associate Member or organization: A non-member nation of the Organization or international organization invited to attend a session of the Commission or a Member Nation or Associate Member of the Organization attending a session of the Commission while not a Member of the Commission

Observer: The representative of an Observer Nation, Associate Member or organization

Session: A properly convened continuing assemblage of delegates which may be adjourned from day to day

Meeting: A period of a session during which delegates do not separate except for a short recess

RULE II

Sessions of the Commission

1. In pursuance of, and in accordance with, Article II-4 of the Agreement, the Commission, in consultation with the Director-General, shall at each session consider whether a session should be held in the second year following and shall decide the time and place for the next session in accordance with the requirements of the Commission's programmes and the terms of the invitation of the country in which the session is to be held. The Chairman, accordingly, shall issue the announcement of the session, provided that, if the Commission at a regular session is unable to fix a time and place for the next session, it shall, in consultation with the Director-General, take a decision as to the calendar year in which the next session is to be held, and the Chairman, in consultation with the Director-General, is then authorized to fix the time and place of the session, provided that the approval of the majority of the Members of the Commission has been secured.

2. The Chairman, in consultation with the Director-General, may call a special session of the Commission at:

(a) the direction of the Commission;

(b) the direction of the Executive Committee with the approval of a majority of the Members; or

(c) the request of a majority of the Members.

The Executive Committee, in consultation with the Director-General, shall decide the time and place of such a session.

3. Invitations to a regular session of the Commission shall be issued not less than sixty days in advance of the date fixed for the opening of the session. Invitations to special sessions shall be issued not less than forty days in advance of the date fixed for opening of the session.

RULE III

Agenda

1. The Agenda of each regular session shall include:

(a) Adoption of the Agenda;

(b) The election of the Chairman and Vice-Chairman as provided for under Article II-3 of the Agreement and the election of two members of the Executive Committee as provided for in Article III-1 of the Agreement;

(c) A report of the Executive Committee on its activities during the intersessional period, including a report of the work performed on behalf of the Commission by the Secretariat;

(d) A report by the Secretary on the financial affairs of the Commission;

(e) Consideration of the proposed budget for the ensuing two years;

(f) Proposals for amendments, if any, to the Agreement, in accordance with Article IX of the Agreement and the provisions of Rule XIV of these Rules;

(g) Applications for membership, if any, in accordance with Article X-2 of the Agreement from States which are not members of the Organization;

(h) Reports of Committees;

(i) Consideration of the time and place of the next session;

(j) Items, if any, referred to the Asia-Pacific Fishery Commission by the Conference, Council or the Director-General of the Organization.

2. The agenda shall also include, upon approval by the Commission:

(a) Items approved at the previous session;

(b) Items proposed by the Executive Committee;

(c) Items proposed by a Member.

3. A provisional agenda, consisting of items (a) to (j) of paragraph 1 of this Rule and such other items as may have been proposed shall be sent by the Secretary to Members and observer nations, Associate Members and organizations not less than sixty days before the date fixed for the opening of the session, together with reports and documents available in connection therewith.

4. The agenda of a special session shall consist only of items relating to the purpose for which the session was called.

RULE IV

The Secretariat

1. The Secretariat shall consist of the Secretary and such staff responsible to him as may be determined by the Director-General and shall provide secretarial services for the Commission.

2. The duties of the Secretary shall include the receipt, collation and circulation of documents, reports and resolutions of the sessions of the Commission and its committees, the preparation of the records of their proceedings, the certification of expenditures and financial commitments and the performance of such other duties as the Commission or the Executive Committee may direct.

3. The originator shall send to the Secretary, for information and record, copies of correspondence concerning the affairs of the Commission.

RULE V

Plenary Meetings of the Commission

Plenary meetings of the Commission shall be held in public unless otherwise decided by the Commission. When the Commission decides to hold a private meeting, it shall at the same time determine the scope of such a decision with respect to observers.

RULE VI

Election of Chairman and Vice-Chairman and of Other Members of the Executive Committee

1. The Commission shall, during each regular session, elect the Chairman and Vice-Chairman of the Commission who shall serve until the end of the next regular session.

2. The Chairman and Vice-Chairman shall assume office at the end of the regular session in which they are elected. They shall be eligible for re-election.

3. The Commission shall, during each regular session, also elect the two members of the Executive Committee referred to in Article III-1 of the Agreement.

RULE VII

Functions of the Chairman and Vice-Chairman

1. The Chairman shall exercise the functions conferred on him elsewhere in these Rules, and in particular shall:

(a) Declare the opening and closing of each plenary meeting of the Commission;

(b) Direct the discussions at such meetings and ensure observance of these Rules, accord the right to speak, put questions and announce decisions;

(c) Rule on points of order;

(d) Subject to these Rules, have complete control over the proceedings of plenary meetings;

(e) Appoint such *ad hoc* committees of the session as the Commission may direct;

2. The Vice-Chairman shall exercise the functions of the Chairman in the Chairman's absence or at the Chairman's request.

RULE VIII

Voting Arrangements and Procedures

1. Except as provided in paragraph 4 of this Rule, voting in plenary meetings shall be oral or by show of hands, except that a vote by roll call shall be taken if a special majority is required by the agreement of these Rules, or if a request of a vote by roll call is made by any delegation.

2. A vote by roll call shall be conducted by calling upon delegations in the English alphabetical order of the respective Members.

3. The record of any roll call vote shall show the votes cast by each delegation and by abstentions.

4. Voting on matters relating to individuals, except the election of officers, shall be by secret ballot.

5. When no nominee for an office obtains on the first ballot a majority of the votes cast, there shall be taken a second ballot confined to two candidates obtaining the largest number of votes. If, on the second ballot, the votes are equally divided, the Chairman shall decide between the candidates by drawing lots.

6. If the Commission is equally divided when a vote is taken on a question other than an election, a second vote shall be taken at the next meeting of the current session. If the Commission is then again equally divided, the proposal shall be regarded as rejected.

7. If the quorum of a a two-thirds majority of all the Members of the Commission is not present at the time of the vote on a proposed amendment to the Agreement, as provided for in Article IX of the Agreement, the Commission may decide that absent Members be informed thereof and requested to vote by a written communication addressed to the Director-General of FAO within ninety days of the closing of the Session at which the proposal was put to vote, provided, however, that the vote must be either affirmative or negative and will not be valid if it were conditional. Such amendments will be considered as adopted only when the required majority has been obtained.

8. Voting arrangements and other related matters not specifically provided for by the Agreement or by these Rules shall be governed "mutatis mutandis", by the provisions of the General Rules of the Organization.

RULE IX

Committees

1. The Executive Committee shall consist of the Chairman, the Vice-Chairman and the immediately retired Chairman and two members elected by the Commission. The Secretary shall be an ex-officio member without vote. The Chairman shall be the Chairman of the Executive Committee. The Executive Committee shall:

(a) Meet at least once a year between regular sessions;

(b) In addition to the duties prescribed elsewhere under these Rules, direct the conduct of the business and affairs of the Commission between its sessions, except that issues of policy, unless previously decided by the Commission shall be formulated by the Executive Committee as a motion and referred to the Members. Upon receipt by the Secretary of affirmative replies from a majority of the Members, the motion shall be considered adopted;

(c) Prepare estimates of expenses for the next succeeding two years for presentation to the Commission for submission to the Organization, in accordance with the provisions of Article VIII-2 of the Agreement;

(d) Co-ordinate the work of the committees and working parties;

(e) Function as an editorial and publications committee.

2. The Commission may establish such committees or working parties as it deems necessary for the accomplishment of its tasks.

(a) The terms of reference of such committees and working parties shall be laid down by the Commission at the time of their establishment.

(b) Each committee or working party shall select a chairman from among its members, who shall act as rapporteur.

(c) The committees and working parties shall report to the Commission through the Executive Committee either at the session at which they were appointed or at the next regular session, according to their terms of reference, and the Commission shall then decide whether or not they shall continue to operate during the ensuing period.

(d) The committees and working parties may from time to time set up such sub-committees as may be required to comply effectively with their terms of reference as laid down by the Commission.

3. The establishment of committees and working parties referred to in paragraph 2 above shall be subject to the provisions of Article III-3 of the Agreement.

4. Each committee or working party may adopt and amend its own rules of procedure, which shall be consistent with the Rules of Procedure of the Asia-Pacific Fishery Commission and the General Rules of the Organization. Such rules of procedure shall come into force upon approval by the Commission. In the absence of rules of procedure, the Rules of Procedure of the Asia-Pacific Fishery Commission shall apply "mutatis mutandis" to its committees and working parties.

RULE X

Budget and Finance

1. Except as otherwise provided in these Rules, the Financial Regulations of the Organization, as implemented by the financial rules, Manual and memoranda and the procedures based thereon, shall apply to the Commission.

2. A proposed budget of the Commission for the next two succeeding financial years consisting of proposed expenses of the Secretariat, including publications and communications, and of the proposed travelling expenses of the Chairman, Vice-Chairman, the immediately retired Chairman and the two other members of the Executive Committee when engaged in the work of the Commission between its sessions shall, after approval by the Commission, be submitted to the Director-General for consideration in the preparation of the general budget estimates of the Organization.

3. When adopted by the Conference in its biennial session as part of the general budget of the Organization, the budget of the Commission shall constitute the limits within which funds may be committed for purposes approved by the Conference.

RULE XI

Participation by observers

1. Members and Associate Members of the Organization that are not Members of the Commission may, upon their request, be represented by an observer at sessions of the Commission and its subsidiary bodies in an observer capacity, in accordance with the Statement of Principles adopted by the Conference relating to the granting of observer status to nations.

2. States that are not Members of the Commission nor Members or Associate Members of the Organization, but are Members of the United Nations, of any of its Specialized Agencies or the International Atomic Energy Agency may, upon request, and with the approval of the Council of the Organization and of the Commission, attend sessions of the Commission and its subsidiary bodies in an observer capacity, in accordance with the Statement of Principles adopted by the Conference relating to the granting of observer status to nations.

3. Participation of international organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and the General Rules of the Organization as well as by the rules and relations with international organizations adopted by the Conference or Council of the Organization.

4. Notwithstanding the provisions of paragraphs 1 and 2 above, the Commission and its subsidiary bodies may elect to hold meetings in private, without the attendance of observers. Except in these circumstances, observers may participate fully in the discussions of the Commission and its subsidiary bodies.

5. In the furtherance of the activities provided for in Article IV (e) and (f) of the Agreement, arrangements may be made with governments that are not Members of the Commission.

RULE XII

Reports and recommendations

1. At each session, the Commission shall approve a report embodying its views, recommendations, resolutions and decisions, including, when requested, a statement of minority views.

2. The conclusions and recommendations of the Commission shall be transmitted to the Director-General of the Organization at the close of each session, who shall as soon as possible after the session circulate them through the Secretary to Members of the Commission, nations, Associate Members and international organizations that were represented at the session and make them available to other Member Nations and Associate Members of the Organization for their information.

3. Recommendations having policy, programme or financial implications for the Organization shall be brought by the Director-General to the attention of the Conference through the Council of the Organization for appropriate action.

4. The Director-General may request Members of the Commission to supply the Commission or the Director-General with information on action taken on the basis of recommendations made by the Commission.

5. Pending the formal transmission of the reports of the committees and working parties, as provided for in Article V of the Agreement, the Director-General may, at the request of the Executive Committee, transmit informally these reports to the Members of the Commission.

6. Reports of committees, technical papers and other documents shall be published as the Executive Committee may consider practicable.

RULE XIII

Recommendations to Members

1. The Commission may make recommendations for action by Members on any matters pertaining to the functions described in Article IV of the Agreement.

2. The Secretary shall receive on behalf of the Commission the replies of the Members in respect of such recommendations and shall prepare a summary and an analysis of such communications for presentation at the next session.

RULE XIV

Amendments to the Agreement

1. Proposals for the amendment of the Agreement as provided by Article IX of the Agreement may be made by any Member in a communication addressed to the Secretary. The Secretary shall transmit to all Members and to the Director-General a copy of such proposals for amendment immediately upon their receipt.

2. No action on a proposal for the amendment of the Agreement shall be taken by the Commission at any session unless it has been included in the provisional agenda of the session.

RULE XV

Suspension and Amendment of Rules

1. Subject to the provisions of the Agreement, any of the foregoing Rules, other than Rules III, IV, X, XI, XII and XIV, may be suspended on the motion of any delegation by a two-thirds majority of the votes at any plenary meeting of the Commission, provided that announcement is made at a plenary meeting and copies of the proposal for suspension have been distributed to the delegations not less than 48 hours before the meeting at which action is to be taken.

2. Amendments of, or additions to, these Rules may be adopted on the motion of any delegation by a two-thirds majority of the membership of the Commission at any plenary meeting of the Commission, provided that an announcement is made at a plenary meeting and copies of the proposal for the amendment or addition have been distributed to delegations not less than 24 hours before the meeting at which action is to be taken.

3. The Executive Committee may propose amendments and additions to these Rules, and any such proposals may be considered at the next session of the Commission.

4. Any amendment to Rule XIV, which may be adopted in accordance with the provisions of paragraph 2 of this Rule, shall not become effective until the next session of the Commission.

RULE XVI

Official languages

The official languages of the Commission shall be English and French. Delegations may use either language at sessions; reports, manuscripts and communications may be written in either language; publication of reports and manuscripts shall be in the language in which they are submitted and, when required by the Commission or the Executive Committee, abstracts in translation may be published.

Agreement for the Establishment of a General Fisheries Commission for the Mediterranean of 24 September 1949, as amended, Rome, 1997

Done at Rome 16 October 1997

Entered into force (not in force)

Depositary: Food and Agriculture Organization of the United Nations, Italy

Primary source citation: Copy of text provided by the Food and Agriculture Organization

AGREEMENT FOR THE ESTABLISHMENT OF THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

As amended by the General Fisheries Council for the Mediterranean at its First Special Session (May 1963), at its Thirteenth Session (July 1976) and at its Twenty-second Session (October 1997) and approved by the FAO Conference at its Twelfth Session (December 1963) and by the FAO Council at its Seventieth Session (December 1976) and at its Hundred and Thirteenth Session (November 1997)

PREAMBLE

The Contracting Parties

Taking account of the relevant provisions of the United Nations Convention on the Law of the Sea which entered into force on 16 November, 1994 (hereafter referred to as the United Nations Convention) and which requires all members of the international community to cooperate in the conservation and management of the living marine resources,

Noting also the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development, 1992 and the Code of Conduct for Responsible Fisheries adopted by the FAO Conference in 1995,

Noting also that other international instruments have been negotiated concerning the conservation and management of certain fish stocks,

Having a mutual interest in the development and proper utilization of the living marine resources in the Mediterranean and the Black Sea and connecting waters (hereafter referred to as the Region) and desiring to further the attainment of their objectives through international cooperation which would be furthered by the establishment of a General Fisheries Commission for the Mediterranean,

Recognizing the importance of fisheries conservation and management in the Region and of promoting cooperation to that effect,

Agree as follows:

ARTICLE I

The Commission

1. The Contracting Parties hereby establish within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization") a Commission to be known as the General Fisheries Commission for the Mediterranean (hereinafter referred to as "the Commission"), for the purpose of exercising the functions and discharging the responsibilities set forth in Article III below.

2. The Members of the Commission shall be such Members and Associate Members of the Organization and such non-member States as are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency, that are:

- (i) coastal States or Associate Members situated wholly or partly within the Region;
- (ii) States or Associate Members whose vessels engage in fishing in the Region for stocks covered by this Agreement; or
- (iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

and which accept this Agreement in accordance with the provisions of Article XI below, it being understood that these provisions shall not affect the membership status in the Commission of such States that are not members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as may have become parties to this Agreement prior to 22 May 1963. As regards Associate Members, this Agreement shall, in accordance with the provisions of Article XIV.5 of the Constitution and Rule XXI.3 of the General Rules of the Organization, be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.

ARTICLE II

Organization

1. Each Member shall be represented at sessions of the Commission by one delegate, who may be accompanied by an alternate and by experts and advisers. Participation in meetings of the Commission by alternates, experts, and advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his absence.

2. Subject to paragraph 3, each Member shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except as otherwise provided by this Agreement. A majority of the total membership of the Commission shall constitute a quorum.

3. A Regional Economic Integration Organization that is a Member of the Commission shall be entitled to exercise in any meeting of the Commission or of any subsidiary body of the Commission a number of votes equal to the number of its Member States that are entitled to vote in such meeting.

4. A Regional Economic Integration Organization that is a Member of the Commission shall exercise its membership rights on an alternative basis with its member States that are Members of the Commission in the areas of their respective competence. Whenever a Regional Economic Integration Organization that is a Member of the Commission exercises its right to vote, its member States shall not exercise theirs, and conversely.

5. Any Member of the Commission may request a Regional Economic Integration Organization that is a Member of the Commission or its member States that are Members of the Commission to provide information as to which, as between the Member Organization and its member States, has competence in respect of any specific question. The Regional Economic Integration Organization or the member States concerned shall provide this information on such request.

6. Before any meeting of the Commission or a subsidiary body of the Commission, a Regional Economic Integration Organization that is a Member of the Commission, or its member States that are Members of the Commission shall indicate which, as between the Regional Economic Integration Organization and its Member States, has competence in respect to any specific question to be considered in the meeting and which, as between the Regional Economic Integration Organization and its member States, shall exercise the right to vote in respect of each particular agenda item. Nothing in this paragraph shall prevent a Regional Economic Integration Organization that is a Member of the Commission or its member States that are Members of the Commission from making a single declaration for the purposes of this paragraph, which declaration shall remain in force for questions and agenda items to be considered at all subsequent meetings subject to such exceptions or modifications as may be indicated before any individual meeting.

7. In cases where an agenda item covers both matters in respect of which competence has been transferred to the Regional Economic Integration Organization and matters which lie within the competence of its member States, both the Regional Economic Integration Organization and its member States may participate in the discussions. In such cases the meeting, in arriving at its decisions, shall take into account only the intervention of the Member which has the right to vote.

8. For the purpose of determining a quorum of any meeting of the Commission, the delegation of a Regional Economic Integration Organization that is a Member of the Commission shall be counted to the extent that it is entitled to vote in the meeting in respect of which the quorum is sought.

9. The Commission shall elect a Chairman and two Vice-Chairmen.

10. The Chairman of the Commission shall normally convene a regular session of the Commission every year unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in consultation with the Director-General of the Organization.

11. The seat of the Commission shall be at the headquarters of the Organization in Rome, or such other location as may be determined by the Commission.

12. The Organization shall provide the Secretariat for the Commission and the Director-General shall appoint its Secretary, who shall be administratively responsible to him.

13. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Rules of Procedure provided that such Rules of Procedure or the amendments thereto are not inconsistent with this Agreement or with the Constitution of the Organization.

14. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Financial Regulations, provided that such Regulations shall be consistent with the principles embodied in the Financial Regulations of the Organization. Such Regulations shall be reported to the Finance Committee of the Organization which shall have the power to disallow such Financial Regulations or amendment if it finds that they are inconsistent with the principles embodied in the Financial Regulations of the Organization.

ARTICLE III

Functions

1. The purpose of the Commission shall be to promote the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture in the Region, and to these ends it shall have the following functions and responsibilities:

- to keep under review the state of these resources, including their abundance and the level of their exploitation, as well as the state of the fisheries based thereon;

- to formulate and recommend, in accordance with the provisions of Article V, appropriate measures:

(i) for the conservation and rational management of living marine resources, including measures:
— regulating fishing methods and fishing gear,
— prescribing the minimum size for individuals of specified species,
— establishing open and closed fishing seasons and areas,
— regulating the amount of total catch and fishing effort and their allocation among Members,

(ii) for the implementation of these recommendations;

- to keep under review the economic and social aspects of the fishing industry and recommend any measures aimed at its development;

- to encourage, recommend, coordinate and, as appropriate, undertake training and extension activities in all aspects of fisheries;

- to encourage, recommend, coordinate and, as appropriate, undertake research and development activities, including cooperative projects in the areas of fisheries and the protection of living marine resources;

- to assemble, publish or disseminate information regarding exploitable living marine resources and fisheries based on these resources;

- to promote programmes for marine and brackish water aquaculture and coastal fisheries enhancement;

- to carry out such other activities as may be necessary for the Commission to achieve its purpose as defined above.

2. In formulating and recommending measures under paragraph 1 (b) above, the Commission shall apply the precautionary approach to conservation and management decisions, and take into account also the best scientific evidence available and the need to promote the development and proper utilization of the marine living resources.

ARTICLE IV

Region

The Commission shall carry out the functions and responsibilities set forth in Article III in the Region as referred to in the Preamble.

ARTICLE V

Recommendations on Management Measures

1. The recommendations referred to in Article III, paragraph 1 (b), shall be adopted by a two-thirds majority of Members of the Commission present and voting. The text of such recommendations shall be communicated by the Chairman of the Commission to each Member.

2. Subject to the provisions of this Article, the Members of the Commission undertake to give effect to any recommendations made by the Commission under Article III, paragraph 1 (b), from the date determined by the Commission, which shall not be before the period for objection provided for in this Article has elapsed.

3. Any Member of the Commission may within one hundred and twenty days from the date of notification of a recommendation object to it and in that event shall not be under obligation to give effect to that recommendation. In the event of an objection being made within the one hundred and twenty days period any other Member may similarly object at any time within a further period of sixty days. A Member may also at any time withdraw its objection and give effect to a recommendation.

4. If objections to a recommendation are made by more than one-third of the Members of the Commission, the other Members shall be relieved forthwith of any obligation to give effect to that recommendation; nevertheless any or all of them may agree among themselves to give effect to it.

5. The Chairman of the Commission shall notify each Member immediately upon receipt of each objection or withdrawal of objection.

ARTICLE VI

Reports

The Commission shall transmit, after each session, to the Director-General of the Organization, a report embodying its views, recommendations and decisions, and make such other reports to the Director-General of the Organization as may seem to it necessary or desirable. Reports of the committees and working parties of the Commission provided for in Article VII of the Agreement shall be transmitted to the Director-General of the Organization through the Commission.

ARTICLE VII

Committees, Working Parties and Specialists

1. The Commission may establish temporary, special or standing committees to study and report on matters pertaining to the purposes of the Commission and working parties to study and recommend on specific technical problems.

2. The committees and working parties referred to in paragraph 1 above shall be convened by the Chairman of the Commission at such times and places as are determined by the Chairman in consultation with the Director-General of the Organization, as appropriate.

3. The Commission may suggest to the Organization the recruitment or appointment of specialists at the expense of the Organization, for consideration of specific questions or problems.

4. The establishment of committees and working parties referred to in paragraph 1 above and the recruitment or appointment of specialists referred to in paragraph 3 above, shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization; the determination of such availability shall be made by the Director-General of the Organization. Before taking any decision involving expenditures in connection with the establishment of committees and working parties and the recruitment or appointment of specialists, the Commission shall have before it a report from the Director-General of the Organization on the administrative and financial implications thereof.

ARTICLE VIII

Cooperation with International Organizations

The Commission shall cooperate closely with other international organizations in matters of mutual interest

ARTICLE IX

Expenses

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives sent to committees or working parties established in accordance with Article VII of this Agreement shall be determined and paid by the respective Members.

2. The expenses of the Secretariat, including publications and communications and the expenses incurred by the Chairman and Vice-Chairmen of the Commission, when performing duties on behalf of the Commission between Commission sessions, shall be determined and paid by the Organization within the limits of the relevant appropriations provided for in the budget of the Organization.

3. The expenses of research and development projects undertaken by individual Members of the Commission, whether independently or upon recommendation of the Commission, shall be determined and paid by the Members concerned.

4. The expenses incurred in connection with cooperative research or development projects undertaken in accordance with the provisions of Article III, paragraph 1 (e), unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Cooperative projects shall be submitted to the Council of the Organization prior to implementation. Contributions for cooperative projects shall be paid into a trust fund to be established by the Organization and shall be administered by the Organization in accordance with the Financial Regulations and Rules of the Organization.

5. The expenses of experts invited, with the concurrence of the Director-General, to attend meetings of the Commission, committees or working parties in their individual capacity shall be borne by the budget of the Organization.

6. The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a trust fund to be established by the Organization. The acceptance of such voluntary contributions and the administration of the trust fund shall be in accordance with the Financial Regulations and Rules of the Organization.

ARTICLE X

Amendments

1. The General Fisheries Commission for the Mediterranean may amend this Agreement by a two-thirds majority of all the Members of the Commission. Subject to paragraph 2 below, amendments shall come into force as from the date of their adoption by the Commission.

2. Amendments involving new obligations for Members shall come into force after acceptance by two-thirds of the Members of the Commission and with respect to each Member only on acceptance of it by that Member. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization who shall inform all the Members of the General Fisheries Commission for the Mediterranean, as well as the Secretary-General of the United Nations, of the receipt of acceptance and the entry into force of such amendments. The rights and obligations of any Member of the General Fisheries Commission for the Mediterranean that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

3. Amendments to this Agreement shall be reported to the Council of the Organization which shall have the power to disallow any amendment which it finds to be inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council of the Organization considers it desirable, it may refer the amendment to the Conference of the Organization which shall have the same power.

ARTICLE XI

Acceptance

1. This Agreement shall be open to acceptance by Members or Associate Members of the Organization.

2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission.

3. Participation in the activities of the Commission by Members of the Commission which are not Members or Associate Members of the Organization shall be contingent upon the assumption of such proportionate share in the expenses of the Secretariat as may be determined in the light of the relevant provisions of the Financial Regulations of the Organization.

4. Acceptance of this Agreement by any Member or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.

5. Acceptance of this Agreement by non-members of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.

6. The Director-General of the Organization shall inform all Members of the Commission, all Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

7. Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous approval by the Members of the Commission. Members of the Commission not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all Members of the Commission of any reservations.

8. References in this Agreement to the United Nations Convention on the Law of the Sea, 1982, or to other international agreements, do not prejudice the position of any State with respect to signature, ratification, or accession to the 1982 United Nations Convention or with respect to other agreements.

ARTICLE XII

Entry into force

This Agreement shall enter into force as from the date of receipt of the fifth instrument of acceptance.

ARTICLE XIII

Territorial Application

The Members of the Commission shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article XIV below, the scope of the territorial application may be modified by a subsequent declaration.

ARTICLE XIV

Withdrawal

1. Any Member may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General of the Organization who shall immediately inform all the Members of the Commission and the Members of the Organization of such withdrawal. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General.

2. A Member of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, with the exception of Associate Members.

3. Any Member of the Commission that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

ARTICLE XV

Interpretation and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement, if not settled by the Commission, shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court, or, in the case of a Regional Economic Integration Organization that is a Member of the Commission, it shall be submitted to arbitration unless the parties to the dispute agree to another method of settlement.

ARTICLE XVI

Termination

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Members of the Commission drops below five, unless the remaining Members unanimously decide otherwise.

ARTICLE XVII

Certification and Registration

The text of this Agreement was originally formulated at Rome on the 24th day of September one thousand nine hundred and forty-nine in the French language. Two copies in the English, French and Spanish languages of this Agreement and of any amendments to this Agreement shall be certified by the Chairman of the Commission and by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each Member of the Organization and to such non-member nations of the Organization that are or may become parties to this Agreement.

RULES OF PROCEDURE

RULE I

For the purpose of these Rules, the following definitions apply:

Agreement:	The Agreement for the establishment of the General Fisheries Council for the Mediterranean formulated at Rome (Italy), 24 September 1949 as amended in conformity with Article X thereof.
Council:	The General Fisheries Council for the Mediterranean.
Chairman:	The Chairman of the Council.
Vice-Chairman:	The Vice-Chairmen of the Council.
Delegate:	The representative of a Member as specified in Article II, paragraph 1, of the Agreement.
Delegation:	The delegate and his alternate, experts, and advisers.
Member:	Member Nations and Associate Members of the Organization, and non-member nations of the Organization, as may be Members of the Council.
Secretary:	The Secretary of the Council.
Organization:	The Food and Agriculture Organization of the United Nations.
Conference:	The Conference of the Organization.
Director-General:	The Director-General of the Organization.
Observer Nation, Associate Member or Organization:	A nation that is not a Member of the Council or of the Organization, or an international organization invited to attend a session of the Council, or a Member Nation or Associate Member of the Organization attending a session of the Council while not a Member of the Council.
Observer:	The representative of an observer nation or organization.

RULE II

Sessions of the Council

1. In pursuance of, and in accordance with, Article II, paragraph 4 of the Agreement, the Council, in consultation with the Director-General, shall at each regular session consider whether a session should be held within two years and shall decide the time and place for the next session in accordance with the requirements of the Council's programmes and the terms of the invitation of the country in which the session is to be held. The Chairman, accordingly, shall issue the announcement of the session, provided that, if the Council at a regular session is unable to fix a time and place for the next session, it shall, in consultation with the Director-General, take a decision as to the calendar year in which the next session is to be held, and the Chairman, in consultation with the Director-General, is then authorized to fix the time and place of the session provided that the approval of a majority of the Members of the Council has been secured.

2. The Chairman may convene a special session of the Council at the request or with the approval of the majority of the Members. The Executive Committee, in consultation with the Director-General, shall decide the time and place of such a session.

3. Invitations to a regular session of the Council shall be issued by the Secretary on behalf of the Chairman not less than sixty days in advance of the date fixed for the opening of the session. Invitations to special sessions shall be issued not less than forty days in advance of the date fixed for the opening of the session.

4. In order that a proposal to hold a session of the Council or any of its organs, in a given country, may be considered, such country must have (a) ratified without reservation the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, or (b) given the assurance that all delegates, representatives, experts, observers, or other persons entitled to attend such session in accordance with the terms of the Agreement or these Rules, will enjoy the privileges and immunities necessary for the independent exercise of their function in connexion with the session.

RULE III

Credentials

At each session the Secretary shall receive the credentials of delegations and observers. Such credentials shall conform to the standard form set by the Secretariat. Upon examination thereof the Secretariat shall report to the Council for the necessary action.

RULE IV

Agenda

1. The agenda of each regular session shall include:

   (a) election of the Chairman and of two Vice-Chairmen as provided under Article II, paragraph 3 of the Agreement;

   (b) adoption of the agenda;

   (c) a report by the Executive Committee on its activities, including a report of the work performed on behalf of the Council by the Secretariat;

   (d) a report by the Secretary on the financial affairs of the Council;

   (e) consideration of the proposed budget;

   (f) reports of committees;

   (g) consideration of the time and place of the next session;

   (h) proposals for amendments to the Agreement and the present Rules of Procedure;

   (i) applications for membership, in accordance with Article XI, paragraph 2 of the Agreement, from States which, while not Members of the Organization, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency;

   (j) items referred to the General Fisheries Council for the Mediterranean by the Conference, the Council or the Director-General of the Organization.

2. The agenda shall also include, upon approval by the Council:

   (a) items approved at the previous session;

   (b) items proposed by the Executive Committee,

   (c) items proposed by a Member.

3. The provisional agenda shall be sent by the Secretary to Members and observer nations and organizations not less than sixty days before the date of the session, together with reports and documents available in connection therewith.

4. The agenda of a special session shall consist only of items relating to the purpose for which the session was called.

RULE V

The Secretariat

1. The Secretariat shall consist of the Secretary and such staff responsible to him as may be determined by the Director-General.

2. The duties of the Secretary shall include the receipt, collation, and circulation of documents, reports, and resolutions of the sessions of the Council and its committees, the record of their proceedings, the certification of expenditures and financial commitments, and the performance of such other duties as the Council or Executive Committee may direct.

3. Copies of all communications concerning the affairs of the Council shall be sent to the Secretary for purposes of information and record.

RULE VI

Plenary Meetings of the Council

Plenary meetings of the Council shall be held in public unless otherwise decided by the Council. When the Council decides to hold a private meeting, it shall at the same time determine the scope of such a decision with respect to observers.

RULE VII

Election of Chairman and Vice-Chairmen

1. The Council shall, during each regular session, elect the Chairman and first and second Vice-Chairman of the Council, who shall assume office immediately following the regular session at which they were elected.

2. Nominees must be delegates or alternates. They shall be eligible for re-election.

RULE VIII

Functions of the Chairman and Vice-Chairmen

1. The Chairman shall exercise the functions conferred on him elsewhere in these Rules and, in particular, shall:

(a) declare the opening and closing of each plenary meeting of the Council;

(b) direct the discussions at such meetings and ensure observance of these Rules, accord the right to speak, put questions and announce decisions;

(c) rule on points of order;

(d) subject to these Rules, have complete control over the proceedings of the session;

(e) appoint such committees of the session as the Council may direct.

2. In the absence of the Chairman, or at his request, his functions shall be exercised by the first Vice-Chairman or, in the absence of the latter, by the second Vice-Chairman.

3. The Chairman or Vice-Chairmen, when acting as Chairman shall not vote and another member of their delegations shall represent their governments.

4. The Secretary shall temporarily exercise the functions of the Chairman in the event the Chairman and Vice-Chairmen are unable to serve.

RULE IX

Voting Arrangements and Procedures

1. Except as provided in paragraph 4 of this Rule, voting in plenary meetings shall be oral or by show of hands, except that a vote by roll call shall be taken if a special majority is required by the Agreement or these Rules, or if a request for a vote by roll call is made by any delegation.

2. A vote by roll call shall be conducted by calling upon delegations in the French alphabetical order.

3. The record of any roll call vote shall show the votes cast by each delegate and any abstention.

4. Voting on matters relating to individuals, except the election of officers of the Council and its committees, shall be by secret ballot.

5. When no nominee for an office obtains on the first ballot a majority of the votes cast, there shall be taken a second ballot confined to the two candidates obtaining the largest number of votes. If, on the second ballot, the votes are equally divided, the Chairman shall decide between the candidates by drawing lots.

6. If the Council is equally divided when a vote is taken on a question other than election a second vote shall be taken at the next meeting of the current session. If the Council is then again equally divided, the proposal shall be regarded as rejected.

7. Voting arrangements and other related matters not specifically provided for by the Agreement, or by these Rules, shall be governed *mutatis mutandis* by the provisions of the General Rules of the Organization.

RULE X

Committees

1. The Executive Committee shall consist of the Chairman and the two Vice-Chairmen. The Chairman of the Council shall be the Chairman of the Executive committee; the Secretary of the Council shall be the Secretary of the Executive Committee. The Executive Committee shall:

   (a) meet at least once between regular sessions;

   (b) conduct the current business of the Council between sessions;

   (c) formulate resolutions to be submitted to the Council in connection with items referred to in Rule IV, paragraph 2b);

   (d) prepare estimates of expenses for the next financial period for presentation to the Council for submission to the Organization, in the light of the provisions of Article IX, paragraph 2 of the Agreement;

   (e) coordinate the work of the committees and working parties;

   (f) function as an editorial and publication committee.

2. The Council may establish such other committees and working parties as it considers desirable.

3. The establishment of committees and working parties referred to in paragraphs 1 and 2 above shall be subject to the provisions of Article VII, paragraph 4 of the Agreement.

4. The procedures of such committees and working parties shall be governed *mutatis mutandis* by the Rules of Procedure of the Council.

RULE XI

Budget and finance

1. Except as otherwise provided in these Rules, the Financial Regulations of the Organization, as amplified by the Administrative Manual and memoranda and the procedures based thereon, shall apply to the Council.

2. A proposed budget of the Council for the next succeeding financial period consisting of proposed expenses of the secretariat, including publications and communications, the proposed travelling expenses of the Chairman and Vice-Chairmen, when engaged in the work of the Council between its sessions, and the expense, if any, of the committees, shall after approval by the Council be submitted to the Director-General for consideration in the preparation of the general budget estimates of the Organization.

3. When adopted by the Conference as part of the general budget of the Organization, the budget of the Council shall constitute the limits within which funds may be committed for purposes approved by the Conference.

4. All cooperative projects shall be submitted to the Council or the Conference of the Organization prior to implementation.

RULE XII

Participation by Observers

1. Participation of international organizations in the work of the Council and the relations between the Council and such organizations shall be governed by the relevant provisions of the Constitution and the General Rules of the Organization, as well as by the rules on relations with international organizations adopted by the Conference or Council of the Organization. All such relations shall be dealt with by the Director-General of the Organization.

2. Members and Associate Members of the Organization that are not Members of the Council may, upon their request, be represented by an observer at sessions of the Council and its subsidiary bodies.

3. States that are not Members of the Council, nor Members or Associate Members of the Organization, but are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon request, and with the approval of the Council of the Organization and of the General Fisheries Council for the Mediterranean, attend sessions of the latter Council and its subsidiary bodies in an observer capacity, in accordance with the Statement of Principles adopted by the Conference relating to the granting of observer status to nations.

4. Unless the Council expressly determines otherwise, observers may attend the plenary meetings of the Council and participate in the discussions at any technical committee sessions which they may be invited to attend. In no case will they be entitled to vote.

RULE XIII

Cooperative Projects

In the furtherance of cooperative projects provided for in Article III(e) of the Agreement, and of studies undertaken outside the region referred to in the Preamble of the Agreement, arrangements may be made with governments that are not members of the Council. All such arrangements shall be made by the Director-General of the Organization.

RULE XIV

Records, Reports and Recommendations

1. Summary records shall be made of each plenary meeting of the Council and each committee meeting, and shall be distributed as soon as possible to the participants.

2. A summary shall be prepared of the proceedings of each session of the Council and shall be published together with such reports of committees, technical papers and other documents as the Executive Committee may consider advisable.

3. At each session the Council shall approve a report embodying its views, recommendations, resolutions and decisions, including, when requested, a statement of minority views.

4. Subject to the provisions of Article V of the Agreement, the conclusions and recommendations of the Council shall be transmitted to the Director-General of the Organization at the close of each session, who shall circulate them to Members of the Council, nations and international organizations that were represented at the session and make them available to other Member Nations and Associate Members of the Organization for their information.

5. Recommendations having policy, programme or financial implications for the Organization shall be brought by the Director-General to the attention of the Conference through the Council of the Organization for action.

6. Subject to the provisions of the preceding paragraph, the Chairman may request Members of the Council to supply the Council or the Director-General with information on action taken on the basis of recommendations made by the Council.

RULE XV

Recommendations to Members

1. The Council may take recommendations for action by Members on any matter pertaining to the functions described in Article III of the Agreement.

2. The Secretary shall receive on behalf of the Council the replies of the Members in respect of such recommendations and shall prepare a summary and an analysis of such communications for presentation at the next session.

RULE XVI

Amendments to the Agreement

1. Proposals for the amendment of the Agreement as provided by Article X of the Agreement may be made by any Member in a communication addressed to the Secretary. The Secretary shall transmit to all Members and to the Director-General a copy of such proposals for amendment immediately upon their receipt.

2. No action on a proposal for the amendment of the Agreement shall be taken by the Council at any session unless it has been included in the provisional agenda of the session.

RULE XVII

Suspension and Amendment of Rules

1. Subject to the provisions of the Agreement any of the foregoing Rules, other than Rules IV, V, X, paragraphs 3 and 4, XI, XII, XIV, paragraph 4, and XVI, may be suspended on the motion of any delegation by a majority of the votes cast at any plenary meeting of the Council, provided that announcement is made at a plenary meeting of the Council and copies of the proposal for suspension have been distributed to the delegations not less than forty-eight hours before the meeting at which action is to be taken.

2. Amendments of, or addition to, these Rules may be adopted on the motion of any delegation by a two-thirds majority of the Members of the Council, at any plenary meeting of the Council, provided an announcement is made at a plenary meeting and copies of the proposal for the amendment or addition have been distributed to delegations not less than twenty-four hours before the meeting at which action is to be taken.

3. The Executive Committee may propose amendments and additions to these Rules and such proposals may be considered at the next session of the Council.

4. Any amendment to Rule XVI which may be adopted in accordance with the provisions of paragraph 2 of this Rule, shall not become effective until the next session of the Council.

RULE XVIII

Official Languages

1. The official languages of the Council shall be such languages of the Organization as the Council itself may decide. The delegations may use any one of these languages at sessions and for their reports and communications. A delegation using a non-official language shall provide for interpretation into one of the official languages.

2. During the meetings, interpretation in one or more of the official languages will be provided by the Secretariat when requested by one of the delegates present.

3. Publications of reports and communications shall be in the language in which they are submitted and, when required by the Council or the Executive Committee, abstracts in translation may be published.

Agreement on the International Dolphin Conservation Program, with Annexes, Washington, DC, 1998

Done at Washington, DC 21 May 1998

Entered into force 15 February 1999

Depositary: United States of America

Primary source citation: Copy of text provided by the U.S. Department of State

PREAMBLE

The Parties to this Agreement,

Aware that, in accordance with the relevant provisions of international law, as reflected in the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, all States have the duty to take, or to cooperate with other States in taking, such measures as may be necessary for the conservation and management of living marine resources;

Inspired by the principles contained in the Rio Declaration on Environment and Development of 1992, as well as the wish to implement the principles and standards of the Code of Conduct for Responsible Fisheries adopted by the FAO Conference in 1995;

Stressing the political will of the international community to contribute to enhancing the effectiveness of fisheries conservation and management measures, through the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the FAO Conference in 1993;

Taking note that the 50th General Assembly of the United Nations, pursuant to resolution A/RES/50/24, adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks ("the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks");

Reaffirming the commitments established in the La Jolla Agreement of 1992 and in the Declaration of Panama of 1995;

Emphasizing the goals of eliminating dolphin mortality in the purse-seine tuna fishery in the eastern Pacific Ocean and of seeking ecologically sound means of capturing large yellowfin tunas not in association with dolphins;

Considering the importance of the tuna fishery as a source of food and income for the populations of the Parties and that conservation and management measures must address those needs and take into account the economic and social impacts of those measures;

Recognizing the dramatic reduction of incidental dolphin mortality achieved through the La Jolla Agreement;

Convinced that scientific evidence demonstrates that the technique of fishing for tuna in association with dolphins, in compliance with the regulations and procedures established under the La Jolla Agreement and reflected

in the Declaration of Panama, has provided an effective method for the protection of dolphins and rational use of tuna resources in the eastern Pacific Ocean;

Reaffirming that multilateral cooperation constitutes the most effective means for achieving the objectives of conservation and sustainable use of living marine resources;

Committed to ensure the sustainability of tuna stocks in the eastern Pacific Ocean and to progressively reduce the incidental dolphin mortalities in the tuna fishery of the eastern Pacific Ocean to levels approaching zero, to avoid, reduce and minimize the incidental catch and the discard of juvenile tuna and the incidental catch of non-target species, taking into consideration the interrelationship among species in the ecosystem;

Have agreed as follows:

ARTICLE I. DEFINITIONS

For the purposes of this Agreement:

1. "Tuna" means the species of the suborder Scombroidei (Klawe, 1980), with the exception of the genus Scomber.

2. "Dolphins" means species of the family Delphinidae associated with the fishery for yellowfin tuna in the Agreement Area.

3. "Vessel" means a vessel that fishes for tuna with a purse seine.

4. "Parties" means the States or regional economic integration organizations which have consented to be bound by this Agreement and for which this Agreement is in force.

5. "Regional economic integration organization" means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;

6. "IATTC" means the Inter-American Tropical Tuna Commission.

7. "La Jolla Agreement" means the instrument adopted at the Intergovernmental Meeting held in June, 1992.

8. "International Dolphin Conservation Program" means the international program established pursuant to this Agreement based on the La Jolla Agreement, as formalized, modified and enhanced in accordance with the Declaration of Panama.

9. "On-Board Observer Program" means the program defined in Annex II.

10. "Declaration of Panama" means the Declaration signed in Panama City, Republic of Panama, on October 4, 1995.

11. "Director" means the Director of Investigations of the IATTC.

ARTICLE II. OBJECTIVES

The objectives of this Agreement are:

1. To progressively reduce incidental dolphin mortalities in the tuna purse-seine fishery in the Agreement Area to levels approaching zero, through the setting of annual limits;

2. With the goal of eliminating dolphin mortality in this fishery, to seek ecologically sound means of capturing large yellowfin tunas not in association with dolphins; and

3. To ensure the long-term sustainability of the tuna stocks in the Agreement Area, as well as that of the living marine resources related to this fishery, taking into consideration the interrelationship among species in the ecosystem, with special emphasis on, *inter alia*, avoiding, reducing and minimizing bycatch and discards of juvenile tunas and non-target species.

ARTICLE III. AREA OF APPLICATION OF THE AGREEMENT

The area of application of this Agreement ("the Agreement Area") is defined in Annex I.

ARTICLE IV. GENERAL MEASURES

The Parties shall, within the framework of the IATTC:

1. Take measures to ensure the conservation of ecosystems as well as conservation and management measures to ensure the long-term sustainability of tuna stocks and other stocks of living marine resources associated with the tuna purse-seine fishery in the Agreement Area, based on the best scientific evidence available, and apply the precautionary approach, consistent with the relevant provisions of the FAO Code of Conduct for Responsible Fisheries and the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks. Such measures shall be designed to maintain or restore the biomass of harvested stocks at or above levels capable of producing maximum sustainable yield, and with the goal of maintaining or restoring the biomass of associated stocks at or above levels capable of producing maximum sustainable yield; and,

2. Take measures, according to their capacities, to assess the catch and bycatch of juvenile yellowfin tuna and other stocks of living marine resources related to the purse-seine tuna fishery in the Agreement Area and establish measures in accordance with Article VI to, *inter alia*, avoid, reduce and minimize the bycatch of juvenile yellowfin tuna and bycatch of non-target species, in order to ensure long-term sustainability of all these species, taking into consideration the interrelationships among species in the ecosystem.

ARTICLE V. INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

Pursuant to the International Dolphin Conservation Program and in consideration of the objective of this Agreement, the Parties shall, *inter alia*:

1. Limit total incidental dolphin mortality in the purse-seine tuna fishery in the Agreement Area to no more than five thousand annually, through the adoption and implementation of relevant measures, which shall include:

   a. The establishment of a system that provides incentives to vessel captains to continue to reduce incidental dolphin mortality, with the goal of eliminating dolphin mortality in this fishery;

   b. The establishment within the framework of the IATTC of a system of technical training and certification for fishing captains and crews on the gear and its use, as well as the techniques for the rescue and safety of dolphins;

   c. Within the framework of the IATTC, the promotion and support of research to improve gear, equipment, and fishing techniques, including those used in the fishery for tunas associated with dolphins;

   d. The establishment of an equitable system for the assignment of dolphin mortality limits (DMLs), consistent with the per-year dolphin mortality caps, in accordance with Annexes III and IV;

   e. Requiring their respective vessels that have been assigned a DML, or that otherwise operate in the Agreement Area, to comply with the operational requirements set forth in Annex VIII;

   f The establishment of a system for the tracking and verification of tuna harvested with and without

mortality or serious injury of dolphins, based on the elements set forth in Annex IX;

g. The exchange of scientific research data collected by the Parties pursuant to this Agreement on a full and timely basis; and

h. The conduct of research for the purpose of seeking ecologically sound means of capturing large yellowfin tunas not in association with dolphins;

2. Establish per-stock per-year dolphin mortality caps, and review and assess the effects of these caps, in accordance with Annex III; and

3. Review the measures at a Meeting of the Parties.

ARTICLE VI. SUSTAINABILITY OF LIVING MARINE RESOURCES

Pursuant to Article IV, the Parties commit to develop and implement, within the framework of the IATTC, measures to ensure the long-term sustainability of living marine resources associated with the purse-seine tuna fishery in the Agreement Area, taking into consideration the interrelationships among species in the ecosystem. To this end, the Parties shall, *inter alia*:

1. Develop and implement a program for assessing, monitoring and minimizing bycatch of juvenile tuna and non-target species in the Agreement Area;

2. To the maximum extent practicable, develop and require the use of selective, environmentally safe and cost-effective fishing gear and techniques;

3. Require that their vessels operating in the Agreement Area release alive incidentally caught sea turtles and other threatened or endangered species, to the maximum extent practicable; and

4. Request the IATTC to initiate investigations to assess whether the fishing capacity of vessels fishing in the Agreement Area poses a threat to the sustainability of tuna stocks and other living marine resources associated with the fishery and, if so, examine possible measures and recommend their adoption whenever appropriate.

ARTICLE VII. IMPLEMENTATION AT THE NATIONAL LEVEL

Each Party shall adopt, in accordance with its laws and procedures, the necessary measures to ensure the implementation of and compliance with this Agreement including, as appropriate, the adoption of relevant laws and regulations.

ARTICLE VIII. MEETING OF THE PARTIES

1. The Parties shall meet periodically to consider matters pertaining to the implementation of this Agreement and to make all decisions relevant thereto.

2. The ordinary Meeting of the Parties shall take place at least once a year, preferably in conjunction with an IATTC meeting.

3. The Parties may also hold extraordinary meetings when deemed necessary. These meetings shall be convened at the request of any Party, provided that such request is supported by a majority of the Parties.

4. The Meeting of the Parties shall be held when a quorum is present. Quorum is reached when a majority of the Parties are present. This rule shall also apply to meetings of subsidiary organs established under this Agreement.

5. The meetings shall be held in Spanish and English, and the documents of the Meeting of the Parties shall be produced in both these languages.

ARTICLE IX. DECISION MAKING

All decisions made by the Parties at meetings convened pursuant to Article VIII shall be by consensus.

ARTICLE X. SCIENTIFIC ADVISORY BOARD

The functions of the Scientific Advisory Board, established pursuant to the La Jolla Agreement, shall be those set forth in Annex V. The Scientific Advisory Board shall be composed and shall operate in accordance with the provisions of Annex V.

ARTICLE XI. NATIONAL SCIENTIFIC ADVISORY COMMITTEES

1. Each Party shall, in accordance with its laws and procedures, establish a National Scientific Advisory Committee (NATSAC) of qualified experts, operating in their individual capacities, from the public and private sectors, and from non-governmental organizations including, *inter alia*, qualified scientists.

2. The functions of the NATSACs shall be, *inter alia*, those set forth in Annex VI.

3. The Parties shall ensure that the NATSACs shall cooperate through regular and timely meetings in the review of data and the status of stocks, and in the development of advice for achieving the objectives of this Agreement. Such meetings shall take place at least once a year in conjunction with an ordinary Meeting of the Parties.

ARTICLE XII. INTERNATIONAL REVIEW PANEL

The functions of the International Review Panel (IRP), established pursuant to the La Jolla Agreement, shall be those set forth in Annex VII. The IRP shall be composed and shall operate in accordance with the provisions of Annex VII.

ARTICLE XIII. ON-BOARD OBSERVER PROGRAM

The On-Board Observer Program established pursuant to the La Jolla Agreement shall operate in accordance with Annex II.

ARTICLE XIV. ROLE OF THE IATTC

Envisioning that the IATTC shall have an integral role in coordinating the implementation of this Agreement, the Parties shall, *inter alia*, request the IATTC to provide Secretariat support and to perform such other functions as are set forth in this Agreement or are agreed upon pursuant to this Agreement.

ARTICLE XV. FINANCING

The Parties shall contribute to the expenses necessary to achieve the objectives of this Agreement, through the establishment and collection of vessel fees, the level of which shall be determined by the Parties, without prejudice to other voluntary financial contributions.

ARTICLE XVI. COMPLIANCE

1. Each Party shall ensure with respect to vessels under its jurisdiction effective compliance with the measures set forth in this Agreement or adopted pursuant thereto. In particular, each Party shall ensure, through *inter alia*, an annual certification and inspection program, that vessels under its jurisdiction comply with:

   a. the operational requirements established in Annex VIII; and

   b. the on-board observer requirements established in Annex II.

2. In respect of violations, each Party, taking into consideration the recommendations of the IRP, shall apply, consistent with its national laws, sanctions of sufficient gravity as to be effective in securing compliance with the provisions of this Agreement and of measures adopted pursuant thereto and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offenses, include refusal, suspension or withdrawal of the authorization to fish.

3. The Parties shall establish incentives for the captains and crews of vessels, with the view to enhancing compliance with this Agreement and its objectives.

4. The Parties shall adopt cooperative measures to ensure compliance with this Agreement, building on decisions that have been taken under the La Jolla Agreement.

5. Each Party shall promptly inform the IRP of enforcement actions it has taken pursuant to this Agreement, and the results thereof.

ARTICLE XVII. TRANSPARENCY

1. The Parties shall promote transparency in the implementation of this Agreement, including through public participation, as appropriate.

2. Representatives from intergovernmental organizations and representatives from non-governmental organizations concerned with matters relevant to the implementation of this Agreement shall be afforded the opportunity to take part in meetings of the Parties convened pursuant to Article VIII as observers or otherwise, as appropriate, in accordance with the guidelines and criteria set forth in Annex X. Such intergovernmental organizations and non-governmental organizations shall have timely access to relevant information, subject to procedural rules on access to such information that the Parties may adopt.

ARTICLE XVIII. CONFIDENTIALITY

1. The Meeting of the Parties shall establish rules of confidentiality for all bodies given access to information pursuant to this Agreement.

2. Notwithstanding any confidentiality rules which may be adopted in accordance with paragraph 1 above, any persons with access to such confidential information may disclose such information in connection with legal or administrative proceedings, if requested by a competent authority of the Party concerned.

ARTICLE XIX. COOPERATION WITH OTHER ORGANIZATIONS OR ARRANGEMENTS

The Parties shall cooperate with subregional, regional and global fishery conservation and management organizations and arrangements with the goal of promoting the achievement of the objectives of this Agreement.

ARTICLE XX. SETTLEMENT OF DISPUTES

1. The Parties shall cooperate in order to prevent disputes. Any Party may consult with one or more other Parties about any dispute related to the interpretation or application of the provisions of this Agreement to reach a solution satisfactory to all as quickly as possible.

2. If a dispute is not settled through such consultation within a reasonable period, the Parties in question shall consult among themselves as soon as possible in order to settle the dispute through any peaceful means they may decide upon in accordance with international law.

ARTICLE XXI. RIGHTS OF STATES

No provision of this Agreement may be interpreted in such a way as to prejudice or undermine the sovereignty, sovereign rights or jurisdiction exercised by any State in accordance with international law, as well as its position or views with regard to matters relating to the law of the sea.

ARTICLE XXII. NON-PARTIES

1. The Parties shall encourage all States and regional economic integration organizations referred to in Article XXIV of this Agreement that are not Parties to become Parties to this Agreement or to adopt laws and regulations consistent with it.

2. The Parties shall cooperate, in accordance with this Agreement and international law, to deter vessels flying the flags of States that are not Parties from carrying out activities that undermine the effectiveness of this Agreement. To this end, the Parties shall, *inter alia*, call to the attention of non-Parties such activities by their vessels.

3. The Parties shall exchange information among themselves, either directly or through the Director, with respect to activities of vessels flying the flags of non-Parties that undermine the effectiveness of this Agreement.

ARTICLE XXIII. ANNEXES

The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement includes a reference to the Annexes relating thereto.

ARTICLE XXIV. SIGNATURE

This Agreement is open for signature at Washington from May 21, 1998, until May 14, 1999 by States with a coastline bordering the Agreement Area and by States or regional economic integration organizations which are members of the IATTC or whose vessels fish for tuna in the Agreement Area while the Agreement is open for signature.

ARTICLE XXV. RATIFICATION, ACCEPTANCE OR APPROVAL

This Agreement is subject to ratification, acceptance or approval by the Signatories in accordance with their domestic laws and procedures.

ARTICLE XXVI. ACCESSION

This Agreement shall remain open to accession by any State or regional economic integration organization that

meets the requirements in Article XXIV, or is otherwise invited to accede to the Agreement on the basis of a decision by the Parties.

ARTICLE XXVII. ENTRY INTO FORCE

1. This Agreement shall enter into force upon deposit of the fourth instrument of ratification, acceptance, approval or accession with the Depositary.

2. After the date referred to in paragraph 1, with respect to each state or regional economic integration organization that meets the requirements of Article XXVI, the Agreement will enter into force for each state or regional economic integration organization upon deposit of its instrument of ratification, acceptance, approval or accession.

ARTICLE XXVIII. RESERVATIONS

No reservations may be made to this Agreement.

ARTICLE XXIX. PROVISIONAL APPLICATION

1. This Agreement shall be applied provisionally by a State or regional economic integration organization which consents to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the Depositary in writing of its intention to terminate provisional application.

ARTICLE XXX. AMENDMENTS

1. Any Party may propose an amendment to this Agreement by providing to the Depositary the text of a proposed amendment at least sixty days in advance of a Meeting of the Parties. The Depositary shall provide a copy of this text to all other Parties.

2. Amendments to this Agreement that are adopted by consensus at a Meeting of the Parties shall enter into force on the date on which all Parties have deposited instruments of ratification, acceptance or approval with the Depositary.

3. Unless the Parties decide otherwise, the Annexes to this Agreement may be amended, by consensus, at any Meeting of the Parties. Unless otherwise agreed, amendments to an Annex shall enter into force for all Parties upon adoption.

ARTICLE XXXI. WITHDRAWAL

Any Party may withdraw at any time after twelve months from the date on which this Agreement entered into force with respect to that Party by giving written notice of withdrawal to the Depositary. The Depositary shall inform the other Parties of the withdrawal within 30 days of receipt of such notice. The withdrawal shall become effective six months after receipt of such notice.

ARTICLE XXXII. DEPOSITARY

The original texts of this Agreement shall be deposited with the Government of the United States of America, which shall send certified copies thereof to the Signatories and the Parties thereto, and to the Secretary General of the United Nations for registration and publication, pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized by their respective Governments, have signed this Agreement.

DONE AT Washington, D.C., on this twenty first day of May, 1998, in English and Spanish, both texts being equally authentic.

Annex I

AGREEMENT AREA

The Agreement Area comprises the area of the Pacific Ocean bounded by the coastline of North, Central, and South America and by the following lines:

a. The 40°N parallel from the coast of North America to its intersection with the 150°W meridian;

b. The 150°W meridian to its intersection with the 40°S parallel;

c. And the 40°S parallel to its intersection with the coast of South America.

Annex II

ON-BOARD OBSERVER PROGRAM

1. The Parties shall maintain an On-Board Observer Program in accordance with the provisions of this Annex. As a component of this Program, each Party may also maintain its own national observer program, in accordance with the provisions of this Annex.

2. Each Party shall require its vessels with a carrying capacity greater than 363 metric tons (400 short tons) and that operate in the Agreement Area, to carry an observer during each fishing trip in the Agreement Area. At least 50 percent of the observers on the vessels of each Party shall be IATTC observers; the remainder may be from the Party's national observer program, based on criteria set forth in this Annex as well as any other criteria established by the Meeting of the Parties.

3. All observers must:

   a. have completed the technical training required by the guidelines that the Parties establish;

   b. be a national of one of the Parties or a member of the scientific staff of the IATTC;

   c. be capable of performing the duties set forth in paragraph 4 of this Annex; and

   d. be included in a list of observers maintained by the IATTC or, if part of a national observer program, by the Party maintaining such program.

4. The duties of the observers shall be, *inter alia*:

   a. to gather all pertinent information on the fishing operations of the vessel to which the observer is assigned as is necessary for implementation of this Agreement;

   b. to make available to the captain of the vessel to which the observer is assigned all measures established by the Parties pursuant to this Agreement;

   c. to make available to the captain of the vessel to which the observer is assigned the record of dolphin mortality of that vessel;

   d. to prepare reports on information gathered in accordance with this paragraph, and provide the vessel captain with the opportunity to include in such reports any information the captain might deem to be relevant;

   e. to provide such reports to the Director or the pertinent national program, to be used in accordance with Annex VII, paragraph 1, of this Agreement; and

   f. to perform such other functions as agreed by the Parties.

5. The observers shall:

   a. except to the extent required under paragraphs 4(d) and 4(e) of this Annex, treat as confidential all information with respect to the fishing operations of the vessels and of the vessel owners, and accept this requirement in writing as a condition of appointment as an observer;

   b. comply with requirements established in the laws and regulations of the Party which exercises jurisdiction over the vessel to which the observer is assigned, insofar as such requirements are not incompatible with the provisions of this Annex;

   c. refrain from issuing or endorsing any certificate or other documentation relating to the fishing operations of the vessel, except as may be approved by the Parties; and

   d. respect the hierarchy and general rules of behavior which apply to all vessel personnel, provided such

rules do not interfere with the duties of the observers described in this Annex and with the obligations of vessel personnel set forth in paragraph 6 of this Annex.

6. The responsibilities of the Parties and vessel captains regarding observers shall include the following, *inter alia*:

   a. Observers shall be allowed access to vessel personnel and to the gear and equipment specified in Annex VIII;

   b. Upon request, observers shall also be allowed access to the following equipment, if present on the vessel to which they are assigned, in order to facilitate the carrying out of their duties set forth in paragraph 4:

      i. satellite navigation equipment;

      ii. radar display viewing screens when in use;

      iii. high-powered binoculars including during the chase and encirclement of dolphins to facilitate identification, except when in use by vessel personnel; and

      iv. electronic means of communication;

   c. Observers shall have access to the vessel working deck during net and fish retrieval and to any specimen, alive or dead, that is brought aboard the vessel during a set in order to collect biological samples in accordance with the On-Board Observer Program or as otherwise required by competent national authorities as part of a national observer program;

   d. Observers shall be provided accommodations, including lodging, food, and adequate sanitary facilities equal to those of the crew;

   e. Observers shall be provided with adequate space on the bridge or pilothouse for clerical work, as well as space on deck adequate for carrying out observer duties; and

   f. The Parties shall ensure that captains, crew, and vessel owners do not obstruct, intimidate, interfere with, influence, bribe, or attempt to bribe an observer in the performance of his or her duties.

7. The Parties shall:

   a. ensure that any observers from their respective national programs collect information in the same manner as is required for IATTC observers; and

   b. provide to the Director copies of all raw data collected by observers from their respective national programs in a timely manner upon the conclusion of the trip during which the data were collected, along with summaries and reports comparable to those provided by IATTC observers.

8. In a timely manner after each trip observed by an IATTC observer, the Director, in a manner consistent with any applicable confidentiality requirements, is requested to provide to the Party under whose jurisdiction the vessel fished, copies of all raw data, summaries, and reports pertaining to the trip.

9. Notwithstanding other provisions of this Annex, if the Director determines that the placement of an observer from the On-Board Observer Program is not practical, a vessel subject to the jurisdiction of a Party that fishes in the Agreement Area without setting on dolphins may use a trained observer from another international program, provided such program is approved by the Parties, to collect pertinent information for the On-Board Observer Program, and to confirm to the Director that such vessel does not set on dolphins.

10. Observers from the On-Board Observer Program may be assigned to vessels of non-Parties at the discretion of the Director, provided the vessel and the vessel captain comply with all the requirements of this Annex, and all other applicable requirements of this Agreement. The Director is requested to inform the Parties of any such assignment in a timely manner.

11. Fees

a. The Parties shall establish the amount of the annual vessel fees to cover the costs of the On-Board Observer Program. The fees shall be calculated on the basis of the carrying capacity of each vessel or any other standard specified by the Parties.

b. At the time a Party submits to the Director the list of vessels under Annex IV to this Agreement, it shall also submit payment, in U.S. dollars, for the fees established under paragraph 11(a) of this Annex, specifying which vessels the payment covers.

c. No observer shall be assigned to a vessel for which the fees, as required under paragraph 11(b) of this Annex, have not been paid.

Annex III

PER-STOCK, PER-YEAR DOLPHIN MORTALITY CAPS

1. The Parties shall establish, at a meeting convened pursuant to Article VIII of this Agreement, a per-stock, per-year dolphin mortality cap for each stock of dolphins, determined by the Meeting of the Parties, based on the best available scientific evidence, of between 0.2 percent and 0.1 percent of the Minimum Estimated Abundance (N_{min}) as calculated by the U.S. National Marine Fisheries Service or equivalent calculation standard as might be developed or recommended by the Scientific Advisory Board but in no event shall the total annual incidental dolphin mortality exceed five thousand, consistent with the provisions of this Agreement. In the year 2001 and thereafter, the per-stock, per-year cap shall be 0.1 percent of N_{min}.

2. The Parties shall conduct in 1998, or as soon as possible thereafter, a scientific review and assessment of progress toward the year 2001 objective, and consider recommendations as appropriate. Up to the year 2001, in the event that annual mortality of 0.2 percent of N_{min} is exceeded for any stock of dolphins, all sets on that stock and on any mixed schools containing members of that stock shall cease for that year. Beginning in the year 2001, in the event that annual mortality of 0.1 percent of N_{min} is exceeded for any stock of dolphins, all sets on that stock and on any mixed schools containing members of that stock shall cease for that year. In the event that annual mortality of 0.1 percent of N_{min} is exceeded for either eastern spinner or northeastern spotted dolphin stocks, the Parties shall conduct a scientific review and assessment and consider further recommendations.

3. For purposes of this Agreement, the Parties shall use the current estimate of absolute abundance for the dolphin stocks of the eastern Pacific Ocean presented by Wade and Gerrodette to the International Whaling Commission in 1992, based on U.S. National Marine Fisheries Service research vessel data for the period 1986-1990, until the Parties agree on an updated set of figures. Such updates could result from the analysis of data from future research cruises and indices of abundance and other relevant scientific data from the Parties, the IATTC and other scientific organizations.

4. The Parties shall establish a system, based on real-time observer reporting, to ensure effective implementation and compliance with the per-stock, per-year dolphin mortality cap.

5. Within six months of the entry into force of this Agreement, the Parties shall establish a system for the allocation of the per-stock per-year dolphin mortality cap for each stock for the ensuing year and years thereafter. This system shall provide for the distribution of the mortality limits in Paragraph 1 of this Annex among vessels of the Parties which are eligible for Dolphin Mortality Limits, in accordance with Annex IV. When establishing this system, the Parties shall consider the best available scientific evidence on the distribution and abundance of the stocks in question, and other variables which the Meeting of the Parties shall define at a later date.

Annex IV

DOLPHIN MORTALITY LIMITS (DMLs)

I. Assignment of DMLs

1. Each Party shall provide to the Meeting of the Parties, through the Director, prior to October 1 of each year, a list of vessels under its jurisdiction of carrying capacity greater than 363 metric tons (400 short tons) that have requested a full-year DML for the following year, indicating those other vessels that are likely to be operating in the Agreement Area in the following year, and vessels that have requested a second-semester DML for the following year.

2. The IRP shall, by November 1 of each year, or later if agreed by the IRP, provide to the Meeting of the Parties a list of qualified applicant vessels eligible to receive a DML. For purposes of this Agreement, a vessel shall be considered qualified if:

   a. it has been certified by the relevant national authorities to be in possession of all of the dolphin safety gear and equipment required in Annex VIII;

   b. its captain and crew have received approved training in dolphin release and rescue techniques comparable to a standard established by the Meeting of the Parties;

   c. it is over 363 metric tons (400 short tons) carrying capacity in size;

   d. it has a captain considered qualified due to his or her prior record of performance; and

   e. the vessel is not deemed to be disqualified under Section II of this Annex.

3. A vessel shall not be considered qualified under paragraph 2 if, on the date of the request pursuant to paragraph 1 of this Annex, the vessel is operating under the jurisdiction of a Party whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins; nor shall DMLs be assigned to any Party in order to provide permits for fishing in the Agreement Area to vessels flying the flag of another State whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins.

4. 98 percent, or such other unreserved portion as the Parties might determine, of the overall dolphin mortality limit for the fishery (five thousand, or such other lower limit as the Parties might determine) shall be used to calculate into an average individual vessel DML (ADML) and distributed among the Parties for the succeeding year, as set forth in paragraph 5 of this Section.

5. The ADML shall be calculated by dividing the unreserved portion of the overall DML for the fishery established under paragraph 4 by the total number of qualified vessels requesting full-year DMLs. The distribution of DMLs among Parties shall be determined by multiplying the ADML by the number of qualified vessels requesting full-year DMLs and operating under the jurisdiction of each Party.

6. The remaining two percent, or such other portion as the Parties might determine, of the overall DML for the fishery shall be maintained as a separate Reserve DML Allocation (RDA), to be managed at the discretion of the Director. Any Party may request that the Director assign DMLs from such RDA to vessels fishing under its jurisdiction which do not normally fish for tuna in the Agreement Area but which may, from time to time, desire to participate in the fishery in the Agreement Area on a limited basis, provided that such vessels and their captains and crews meet the operational and training requirements set forth in Annex VIII of this Agreement and that the requirements set forth in paragraphs 2 and 3, of this Section are met. Any accidental mortalities caused by vessels operating in the Agreement Area under the jurisdiction of any of the Parties that have not requested DMLs for their fleet shall also be deducted from this RDA.

7. No DML shall be assigned to a vessel which has been determined by the Parties to have engaged in a pattern of violations, as confirmed through enforcement actions taken against such vessel by the Party under whose jurisdiction it operates, which diminish the effectiveness of the International Dolphin Conservation Program.

8. The individual Parties with qualified vessels that will be fishing for tuna in association with dolphins shall manage their DMLs in a responsible manner, provided that no individual vessel shall receive a total annual DML in excess of the DML established for 1997 by the IRP, and reported in the Minutes of the 14th Meeting of the IRP, held on February 19-20, 1997, under the La Jolla Agreement. No Party shall allocate to the total of its qualified vessels a greater number of DMLs than those that such Party has been allocated under Sections I and III of this Annex. No initial assignment of DMLs may result in any vessel receiving a DML in excess of the ADML unless its performance in reducing dolphin mortalities, as measured by the IRP based upon the previous two years' data, is better than the average performance of the international fleet as a whole. No initial assignment of DMLs may result in any vessel receiving a DML in excess of the ADML if, during the previous year, it has committed any of the infractions identified in Section III, paragraph 4 of this Annex, subject to the conditions established pursuant to that paragraph.

9. Should the total mortalities of the fleet of any Party meet or exceed the total amount of DML distributed to it pursuant to this Annex, fishing for tuna in association with dolphins shall cease for all vessels operating under the jurisdiction of that Party.

10. Each Party shall, no later than February 1 of each year, notify the Director of the initial allocation of its distributed DML among its fleet. No vessel may begin fishing for tunas associated with dolphins until the Director receives such notification.

II. Utilization of DMLs

1. Any vessel which is assigned a full-year DML and does not set on dolphins prior to April 1 of that year, or which is assigned a second-semester DML and does not set on dolphins by December 31 of that year, or which is assigned a per-trip DML from the RDA and does not set on dolphins during that trip, unless as a result of *force majeure* or extraordinary circumstances, as agreed by the IRP, shall lose its DML and may not set on dolphins for the remainder of that year. Any such vessel that loses its DML on two consecutive occasions shall not be eligible to receive a DML for the following year.

2. Within six months following entry into force of this Agreement, the IRP, in cooperation with the scientific staff of the IATTC, shall develop and recommend a system by which to measure DML utilization in order to deter frivolous requests for DMLs. Such recommended system shall be presented for consideration by the Meeting of the Parties.

III. Use of forfeited or unutilized DMLs

1. After April 1 of each year, any DMLs which the Director determines will not be utilized pursuant to Section II or which have otherwise been forfeited shall be reallocated to the Parties consistent with this Section.

2. On the first working day in April of each year, the full-year DMLs assigned to those vessels that have not utilized them, pursuant to Section II, or have otherwise forfeited them, shall be redistributed among the Parties by the Director, consistent with the formula established pursuant to Section I, paragraph 5, but after first adjusting such formula as set forth in subparagraphs (a), (b) and (c) below. Such additional DMLs may be reallocated by the individual Parties among qualified vessels under the jurisdiction of such Party, subject to limitations and conditions set forth in paragraphs 3, 4, 5, 6 and 7 of this Section.

   a. In performing the reallocation, any vessels that may have lost or otherwise forfeited DMLs under this paragraph, and any vessels requesting second-semester DMLs after the deadline set forth in Section I, paragraph 1, shall not be considered.

   b. Prior to establishing the number of DMLs available for reallocation under this Section, adjustment shall be made by subtracting from such number any observed dolphin mortalities caused by those vessels that lost their DMLs under Section II, paragraph 1.

   c. Prior to establishing the number of DMLs available for reallocation under this Section, the Director shall deduct one third of the ADML calculated pursuant to Section I, paragraph 5, for allocation to each vessel requesting a second-semester DML prior to the deadline established pursuant to Section I, paragraph 1. Such second-semester DMLs shall be allocated by the Director to the Parties proportionately, based upon the jurisdiction of respective Parties over vessels covered under this subparagraph. The second-semester DMLs assigned to such vessels by the Parties under whose jurisdiction

they operate shall not exceed one-third of the ADML calculated pursuant to Section I, paragraph 5. Such vessels may not begin setting on dolphins before July 1 of that year.

3. Any Party may adjust the DMLs of its qualified vessels which meet the criteria set forth in Section I, paragraph 2, of this Annex either upward or downward, provided that no vessel is assigned an adjusted DML in excess of 50 percent above its initial DML, unless its performance in successfully reducing dolphin mortalities, as measured by the IRP, is in the upper 60 percent of the performance of the international fleet as a whole, as determined by the IRP, based upon the prior year's data. A Party making such an adjustment shall so notify the Director no later than May 1, and no such adjustment shall take effect until the Director has been notified.

4. No vessel may have its initial DML adjusted upward by any Party if the IRP had determined, and the Party with jurisdiction over the vessel concurs, that during that year or the previous year:

   a. the vessel fished without an observer;

   b. the vessel set on dolphins without a DML;

   c. the vessel set on dolphins after reaching its DML;

   d. the vessel knowingly set on a banned dolphin stock;

   e. the captain, crew, or the vessel owner committed any of the actions described in Annex II, Paragraph 6(f) of this Agreement;

   f. the vessel made a sanctionable night set; or

   g. the vessel used explosives during any phase of a fishing operation involving dolphins.

   For infractions described in (a), (b), (c), (d), (f), and (g), a Party will be deemed to have provided such concurrence if it does not object to the IRP within six months of a referral of a possible violation from the IRP. For the infraction described in (e), a Party will be deemed to have provided such concurrence if it does not object to the IRP within 12 months of such referral.

5. No vessel may be eligible to receive an additional allocation of DML by a Party unless it has on board all of the required dolphin safety gear and equipment throughout the year; and no such upward allocation may be made for a vessel which has exceeded its initial DML prior to April 1, unless due to force majeure or extraordinary circumstances, as agreed by the Meeting of the Parties, in consultation with the IRP.

6. For any vessel exceeding its DML, as it may be adjusted pursuant to this Annex, during a given year, the amount of such excess, plus an additional 50 percent of that amount, unless the IRP recommends otherwise, shall be deducted from DMLs assigned to that vessel by a Party under whose jurisdiction the vessel operates over subsequent years in a manner prescribed by the IRP.

7. If at any time a vessel meets or exceeds its DML, as it may be adjusted pursuant to this Annex, that vessel shall immediately cease all fishing for tuna in association with dolphins.

IV. Implementation

1. The Parties shall ensure that in the implementation of the DML system established by this Annex, the per-stock, per-year dolphin mortality caps, as specified in Annex III, are not exceeded.

2. In cases involving unusual or extraordinary circumstances not foreseen in this Annex, the Parties, as recommended by the IRP, may take such measures as are necessary, consistent with the provisions of this Annex, in order to implement the DML, system.

3. If the mortality in any given year increases above levels which the IRP considers to be significant, the IRP shall recommend that the Parties hold a meeting to review and identify the causes of mortality and formulate options to address such causes.

Annex V

SCIENTIFIC ADVISORY BOARD

1. The Parties shall maintain the Scientific Advisory Board of technical specialists established pursuant to the La Jolla Agreement to assist the Director in matters regarding research to

   a. modify current purse-seine technology to make it less likely to cause dolphin mortality and

   b. seek alternative means of capturing large yellowfin tuna.

2. The functions and responsibilities of the Board shall be to:

   a. Meet at least once each year;

   b. Review plans, proposals, and research programs of the IATTC to seek to meet the objectives set forth in paragraph 1 above;

   c. Provide advice to the Director concerning the design, facilitation, and guidance of research to achieve the objectives set forth in paragraph 1 above; and

   d. Assist the Director in locating sources of funding to conduct such research.

3. The Board will consist of no more than 10 members, no more than two of whom shall be from any one country, selected from the international community of scientists, fishing gear experts, the fishing industry, and environmentalists. The members will be proposed by the Director on the basis of their technical expertise, and each one will be subject to approval by the Parties.

Annex VI

NATIONAL SCIENTIFIC ADVISORY COMMITTEES

1. The functions of the National Scientific Advisory Committees (NATSACs), established in accordance with Article XI of this Agreement, shall be, *inter alia*, to:

   a. Receive and review relevant data, including data provided to national authorities by the Director;

   b. Advise and recommend to their governments measures and actions that should be undertaken to conserve and manage stocks of living marine resources in the Agreement Area;

   c. Make recommendations to their governments regarding research needs, including research concerning ecosystems, the effects of climatic, environmental and socioeconomic factors, the effects of fishing as well as on measures contemplated in this Agreement, fishing techniques and practices, and gear technology research, including the development and use of selective environmentally safe and cost-effective fishing gear; and the coordination and facilitation of such research;

   d. Conduct scientific reviews and assessments by the year 1998 or as soon as possible thereafter, regarding progress toward the year 2001 objective of achieving a per-stock, per-year cap of 0.1 percent N_{min}, and make appropriate recommendations to their governments concerning these reviews and assessments, as well as additional assessments in the year 2001 consistent with this Agreement;

   e. Ensure the regular and timely full exchange of data among the Parties and the NATSACs on catch of tuna and associated species and bycatch, including dolphin mortality data, for the purposes of developing conservation and management recommendations to their governments as well as recommendations for enforcement and scientific research while not violating the confidentiality of business confidential data;

   f. Consult with other experts as necessary for the purpose of gathering as much information as possible that might be useful for achieving the objectives of this Agreement; and

   g. Perform such other functions as their respective governments might assign to them.

2. Reports of the NATSACs, including of their cooperative meetings, shall be made available to the Parties and the public, in a manner consistent with any applicable confidentiality requirements.

3. The Director may convene, in addition to the meetings pursuant to Article XI, paragraph 3, meetings with the purpose of facilitating consultation among the NATSACs,

4. The functions of the meetings of the NATSACs shall be to:

   a. Exchange information;

   b. Review IATTC research to achieve the objectives of this Agreement; and

   c. Make recommendations to the Director concerning the future research program to achieve the objectives of this Agreement.

5. The NATSAC members from any Party who attend the meeting shall be designated by that Party.

Annex VII

INTERNATIONAL REVIEW PANEL

1. In compliance with Article XII of this Agreement, the International Review Panel (IRP) shall have the following functions:

   a. Each year compile a list of the vessels that qualify for DMLs as agreed in Annex IV;

   b. Analyze the reports submitted to the IRP, regarding all tuna-fishing trips made by vessels covered by this Agreement;

   c. Identify possible infractions, based on the list of possible infractions approved by the Meeting of the Parties;

   d. Inform each Party, through the Director, of possible infractions committed by vessels flying its flag or operating under its jurisdiction, and receive from that Party information on the actions taken;

   e. Maintain an updated report on the actions taken by the Parties to provide adequate training for fishing captains, and maintain a list of those fishing captains determined to be complying with established performance requirements, based on the information provided by each of the Parties;

   f. Recommend to the Meeting of the Parties pertinent measures for achieving the objectives of this Agreement, in particular those related to the use of gear, equipment and fishing techniques, considering improvements in technologies, as well as the adoption of appropriate incentives for captains and crews to meet the objectives of this Agreement;

   g. Prepare and provide the Meeting of the Parties an annual report on those aspects of the operation of the fleet relating to the implementation of this Agreement, including a summary of possible infractions identified and the actions taken by the Parties;

   h. Recommend to the Parties ways to progressively reduce dolphin mortality incidental at the fishery in the Agreement Area; and

   i. Perform other functions as assigned by the Meeting of the Parties.

2. The IRP shall be made up of representatives of the Parties ("governmental members"), three representatives of non-governmental environmental organizations with recognized experience in matters pertaining to this Agreement and with offices in the territory of a Party, and three representatives from the tuna industry that operates under the jurisdiction of any of the Parties in the Agreement Area ("non-governmental members").

3. The non-governmental members shall have a two-year term of membership, starting at the first meeting of the IRP immediately after their election.

4. The non-governmental members will be elected in accordance with the following procedure:

   a. Prior to the expiration of the term of a non-governmental member, the relevant non-governmental organizations may present candidates' nominations 60 days before the expiration of the term to the Director. A curriculum vitae should accompany each nomination. The current non-governmental members may be nominated for additional periods.

   b. Once the nominations are received, the Director shall transmit them in writing to the Parties within 10 days. The Parties should send their votes to the Director within 20 days of the transmittal of the nominations by the Director. In this election, the three nominees from each non-governmental sector who receive the most votes shall be elected; the nominee who receives the fourth largest number of votes shall be designated the alternate member. In the case of a tie, the Director should solicit a new vote from the Parties to determine the member and the alternate.

c. If a non-governmental position becomes permanently vacant, because of death, resignation, or failure to participate in three consecutive meetings of the IRP, the alternate shall fill the position for the remainder of that position's term. The candidate who received the fifth largest number of votes in the elections referred to in paragraphs (a) and (b) shall be designated the alternate member. If additional vacancies occur, the Director shall inform the relevant non-governmental organizations so that new candidates may be submitted for an election process consistent with that described in paragraphs (a) and (b).

d. Each alternate may attend the meetings of the IRP, but shall have no speaking rights if all the members of his/her respective sector are present.

5. The IRP shall hold at least three meetings a year, one of which will preferably be held on the occasion of the ordinary Meeting of the Parties.

6. The IRP may convene additional meetings at the request of at least two of the Parties, provided that a majority of the Parties support the request.

7. The IRP meetings shall be chaired by a Presider elected by the governmental members at the beginning of each meeting, who shall decide on matters of order. Any member shall have the right to ask that any decision made by the Presider be decided as specified in Paragraph 9 of this Annex.

8. The meetings shall be in Spanish and English, and IRP documents shall also be produced in both languages.

9. The decisions at the meetings of the IRP shall be adopted by consensus among the governmental members.

10. The following criteria shall be applied to attendance at IRP meetings:

a. There shall be no restrictions on the number of persons a Party can include in its delegation to an IRP meeting.

b. Any IATTC member or Signatory to this Agreement may be represented by an observer.

c. Any State not a member of the IATTC and any State or regional economic integration organization not a signatory to this Agreement may be represented by an observer, with prior notification to IRP governmental members, unless any governmental member of the IRP objects in writing.

d. The Director may invite representatives of intergovernmental organizations as observers, with prior notification to IRP members, unless any governmental member of the IRP objects in writing.

e. In any cases referred to in (c) and (d) above, the Director shall not disclose the identity of the objecting Party.

f. Each observer is limited to two delegates, but may bring more with the approval of two-thirds of the governmental members of the IRP.

11. In cases of urgency, and without prejudice to the provisions of paragraph 9 of this Annex, the IRP may take decisions by correspondence through a vote of the governmental members, under the following procedures:

a. The proposal shall be circulated to all members of the IRP, in writing, with all pertinent documentation, at least fourteen days before the proposed effective date of the resolution, action, or measure; the votes shall be transmitted to the Director no less than seven days before the proposed effective date;

b. The proposal shall be considered urgent unless a simple majority of the governmental members objects in writing; the proposal shall be accepted unless any governmental member objects in writing; and

c. The Director shall circulate the proposal as well as the accompanying documentation, receive and count the votes, and inform the IRP members of the results of a vote as soon as the voting closes.

12. The Director will carry out the functions of the Secretary, which shall include:

    a. Assisting in the convening and organization of IRP meetings;

    b. Presenting information required by the IRP for carrying out its functions and responsibilities, including observer IRP forms and field data forms providing information on the activities of the vessels, dolphin mortality, and the presence, condition, and use of the dolphin safety equipment and gear;

    c. Preparing minutes of all meetings and draft special reports and documents dealing with the activities of the IRP;

    d. Providing to each Party, for its consideration, recommendations and information concerning possible infractions identified by the IRP for vessels under its jurisdiction;

    e. Distributing to the IRP information received from Parties on the actions taken on possible infractions identified by the IRP;

    f. Publishing the Annual Report of the IRP and making it available to the public, in accordance with the instructions given by the Meeting of the Parties;

    g. Presenting to the members of the IRP information received from the Parties referred to in paragraph 1(e) of this Annex; and

    h. Carrying out other tasks necessary for the accomplishment of the IRP's functions, as assigned by the Parties.

13. The rules of procedure of the IRP may be modified by the Meeting of the Parties. Modifications may be recommended by the IRP.

14. The members of the IRP and any other participants invited to attend IRP meetings as observers shall treat all the information presented at such meetings in accordance with the provisions of confidentiality set forth in Article XVIII of this Agreement.

Annex VIII

OPERATIONAL REQUIREMENTS FOR VESSELS

1. For the purposes of this Annex:

   a. "Strip" means a section of net that is approximately 6 fathoms deep.

   b. "Backdown" means the procedure for releasing captured dolphins by shifting the vessel's engine(s) into reverse during net retrieval, causing the net remaining in the water to form a channel, and the corkline at the apex of the channel to submerge.

   c. "Bunch" means a length of corkline gathered together.

   d. "Sack-up" means that part of the fishing process when the catch is concentrated near the surface for loading aboard the vessel.

2. Dolphin Safety Gear and Equipment Requirements

   A vessel with a carrying capacity of more than 363 metric tons (400 short tons) operating in the Agreement Area shall:

   a. Have a purse seine equipped with a dolphin safety panel (DSP) with the following characteristics:

      i. A minimum length of 180 fathoms (as measured before installation), except that the minimum length of the DSP in nets deeper than 18 strips must be determined in a ratio of 10 fathoms in length for each strip of net depth. The DSP must be installed so as to cover the backdown channel along the corkline, beginning at the outboard end of the last bow bunch pulled and continuing to at least two-thirds the distance from the apex of the backdown channel to the point where the net is secured at the stern. The DSP shall consist of small-mesh webbing not to exceed 1 1/4 inches (3.2 cm) stretched mesh, extending downward from the corkline to a minimum depth of two strips.

      ii. Each end shall be identified with a highly visible marker.

      iii. Any space between the corks or the corkline and the small mesh shall not exceed 1 3/8 inches (3.5 cm) in diameter.

   b. Have at least three operable speedboats. All operable speedboats shall be equipped with towing bridles or posts, and tow lines;

   c. Have an operable raft suitable for the observation and rescue of dolphins;

   d. Have at least two operable facemasks suitable for underwater observation; and

   e. Have an operable long-range floodlight with a minimum output of 140,000 lumens.

3. Dolphin Protection and Release Requirements and Prohibitions

   A vessel with a carrying capacity of more than 363 metric tons (400 short tons) operating in the Agreement Area shall:

   a. Perform backdown during every set in which dolphins are captured, until it is no longer possible to remove live dolphins from the net by this procedure. At least one crewman shall be deployed during backdown to aid in the release of dolphins;

   b. Continue efforts to release any live dolphins remaining in the net after backdown, so that all live dolphins are released prior to the initiation of the sack-up procedure;

c. Not sack-up or brail live dolphins;

d. Avoid injuring or killing dolphins captured in the course of fishing operations;

e. Complete backdown no later than thirty minutes after sunset, as determined by an accurate and reliable source approved by the Parties. A set that does not meet this requirement is termed a "night set";

f. Not use any type of explosive during any phase of a fishing operation involving dolphins (underwater flares are not considered to be explosives);

g. Cease setting on dolphins when its DML has been reached;

h. Not intentionally set on dolphins if the vessel does not have a DML; and

i. Perform a periodic net alignment to ensure the proper location of the dolphin safety panel during the backdown procedure, based on criteria established by the IRP.

It is emphasized that the above requirements should not lead to crewmen being placed in situations that present unnecessary risks to their personal safety.

4. Exceptions

a. A vessel without a DML is exempt from the requirements of Paragraph 2 of this Annex and from the obligation of carrying out the backdown maneuver mentioned in Paragraph 3 of this Annex unless the Party with jurisdiction over that vessel determines otherwise.

b. Any such vessel that captures dolphins accidentally shall attempt to release the dolphins, using every means at its disposal, including aborting the set, and taking into consideration the requirements set forth in paragraph 3 of this Annex.

5. Treatment of Observers

Captains, crew, and other personnel shall comply with their responsibilities regarding the presence of observers aboard their vessels, as specified in Annex II, paragraph 6.

6. Vessels under 363 metric tons (400 short tons)

No vessel with a carrying capacity of 363 metric tons (400 short tons) or less may intentionally set on dolphins.

Annex IX

ELEMENTS OF A TUNA TRACKING AND VERIFICATION PROGRAM

1. Pursuant to Article V, paragraph 1(f), the Parties shall establish a program to track and verify tuna harvested by vessels in the Agreement Area, based on the following elements:

   a. the use of weight calculation for the purposes of tracking tuna caught, landed, processed and exported;

   b. additional measures to enhance current observer coverage, including the establishment of criteria for training and for improving monitoring and reporting capabilities and procedures;

   c. the designation of well location, procedures for sealing holds, procedures for monitoring and certifying both above and below deck, or through equally effective methods;

   d. the reporting, receipt, and database storage of radio and facsimile transmittals from vessels containing information related to the tracking and verification of such tuna;

   e. the shore-based verification and tracking of such tuna throughout the fishing, transshipment, and canning process by means of On-board Observer Program trip records;

   f. the use of periodic audits and spot checks for caught, landed, and processed tuna products; and

   g. the provision of timely access to relevant data.

2. Each Party shall implement this program in its respective territory, on vessels subject to its jurisdiction and in marine areas with respect to which it exercises sovereignty or sovereign rights and jurisdiction.

Annex X

GUIDELINES AND CRITERIA FOR THE PARTICIPATION OF OBSERVERS AT MEETINGS OF THE PARTIES

1. The Director shall invite to Meetings of the Parties convened pursuant to Article VIII intergovernmental organizations whose work is relevant to the implementation of this Agreement, as well as non-Parties whose participation may promote implementation of this Agreement.

2. Non-governmental organizations (NGOs) with recognized experience in matters pertaining to this Agreement shall be eligible to participate as observers in all Meetings of the Parties convened pursuant to Article VIII except meetings held in executive session or meetings of Heads of Delegation.

3. Any NGO desiring to participate as an observer in a Meeting of the Parties shall notify the Director of its desire to participate at least 50 days in advance of the Meeting. The Director shall notify the Parties of the names of such NGOs at least 45 days prior to the beginning of the Meeting.

4. If a Meeting of the Parties is held with less than 50 days notice, the Director shall have greater flexibility concerning the timing of the sending of the invitations.

5. An NGO desiring to participate as an observer may do so unless a majority of the Parties formally objects for cause in writing at least 30 days prior to the beginning of the meeting in question.

6. Any participating observer may:

   a. attend meetings, subject to paragraph 2 of this Annex, but not vote;

   b. make oral statements during the meetings upon the invitation of the chairman;

   c. distribute documents at the meeting, with the approval of the chairman; and

   d. engage in other activities, as appropriate and as approved by the chairman.

7. The Director may require NGO observers to pay reasonable fees, and to cover costs attributable to their attendance (e.g. copying expenses).

8. All observers admitted to a Meeting of the Parties shall be sent or otherwise provided the same documentation generally available to Parties, except documentation containing business-confidential data.

9. All observers admitted to a Meeting of the Parties shall comply with all rules and procedures applicable to other participants in the meeting.

MULTILATERAL

FISHERIES

NON-BINDING

Code of Conduct for Responsible Fisheries, Rome, 1995

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CODE OF CONDUCT FOR RESPONSIBLE FISHERIES

PREFACE

From ancient times, fishing has been a major source of food for humanity and a provider of employment and economic benefits to those engaged in this activity. The wealth of aquatic resources was assumed to be an unlimited gift of nature. However, with increased knowledge and the dynamic development of fisheries after the second world war, this myth has faded in face of the realization that aquatic resources, although renewable, are not infinite and need to be properly managed, if their contribution to the nutritional, economic and social well-being of the growing world's population is to be sustained.

The widespread introduction in the mid-seventies of exclusive economic zones (EEZs) and the adoption in 1982, after long deliberations, of the United Nations Convention on the Law of the Sea provided a new framework for the better management of marine resources. The new legal regime of the ocean gave coastal States rights and responsibilities for the management and use of fishery resources within their EEZs which embrace some 90 percent of the world's marine fisheries. Such extended national jurisdiction was a necessary but insufficient step toward the efficient management and sustainable development of fisheries. Many coastal States continued to face serious challenges as, lacking experience and financial and physical resources, they sought to extract greater benefits from the fisheries within their EEZs.

In recent years, world fisheries have become a market-driven, dynamically developing sector of the food industry and coastal States have striven to take advantage of their new opportunities by investing in modern fishing fleets and processing factories in response to growing international demand for fish and fishery products. By the late 1980s it became clear, however, that fisheries resources could no longer sustain such rapid and often uncontrolled exploitation and development, and that new approaches to fisheries management embracing conservation and environmental considerations were urgently needed. The situation was aggravated by the realization that unregulated fisheries on the high seas, in some cases involving straddling and highly migratory fish species, which occur within and outside EEZs, were becoming a matter of increasing concern.

The Committee on Fisheries (COFI) at its Nineteenth Session in March 1991 called for the development of new concepts which would lead to responsible, sustained fisheries. Subsequently, the International Conference on Responsible Fishing, held in 1992 in Cancún (Mexico) further requested FAO to prepare an international Code of Conduct to address these concerns. The outcome of this Conference, particularly the Declaration of Cancún, was an important contribution to the 1992 United Nations Conference on Environment and Development (UNCED), in particular its Agenda 21. Subsequently, the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened, to which FAO provided important technical back-up. In November 1993, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas was adopted at the Twenty-seventh Session of the FAO Conference.

Noting these and other important developments in world fisheries, the FAO Governing Bodies recommended the formulation of a global Code of Conduct for Responsible Fisheries which would be consistent with these instruments and, in a non-mandatory manner, establish principles and standards applicable to the conservation, management and development of all fisheries. The Code, which was unanimously adopted on 31 October 1995 by the FAO Conference, provides a necessary framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment.

FAO, in accordance with its mandate, is fully committed to assisting Member States, particularly developing countries, in the efficient implementation of the Code of Conduct for Responsible Fisheries and will report to the United Nations community on the progress achieved and further action required.

INTRODUCTION

Fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic well being for people throughout the world, both for present and future generations and should therefore be conducted in a responsible manner. This Code sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity. The Code recognises the nutritional, economic, social, environmental and cultural importance of fisheries, and the interests of all those concerned with the fishery sector. The Code takes into account the biological characteristics of the resources and their environment and the interests of consumers and other users. States and all those involved in fisheries are encouraged to apply the Code and give effect to it.

Article 1

NATURE AND SCOPE OF THE CODE

1. This Code is voluntary. However, certain parts of it are based on relevant rules of international law, including those reflected in the United Nations Convention on the Law of the Sea of 10 December 1982. The Code also contains provisions that may be or have already been given binding effect by means of other obligatory legal instruments amongst the Parties, such as the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, which, according to FAO Conference resolution 15/93, paragraph 3, forms an integral part of the Code.

2. The Code is global in scope, and is directed toward members and non-members of FAO, fishing entities, subregional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries, such as fishers, those engaged in processing and marketing of fish and fishery products and other users of the aquatic environment in relation to fisheries.

3. The Code provides principles and standards applicable to the conservation, management and development of all fisheries. It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

4. In this Code, the reference to States includes the European Community in matters within its competence, and the term fisheries applies equally to capture fisheries and aquaculture.

Article 2

OBJECTIVES OF THE CODE

The objectives of the Code are to:

1. establish principles, in accordance with the relevant rules of international law, for responsible fishing and

fisheries activities, taking into account all their relevant biological, technological, economic, social, environmental and commercial aspects;

2. establish principles and criteria for the elaboration and implementation of national policies for responsible conservation of fisheries resources and fisheries management and development;

3. serve as an instrument of reference to help States to establish or to improve the legal and institutional framework required for the exercise of responsible fisheries and in the formulation and implementation of appropriate measures;

4. provide guidance which may be used where appropriate in the formulation and implementation of international agreements and other legal instruments, both binding and voluntary;

5. facilitate and promote technical, financial and other cooperation in conservation of fisheries resources and fisheries management and development;

6. promote the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities;

7. promote protection of living aquatic resources and their environments and coastal areas;

8. promote the trade of fish and fishery products in conformity with relevant international rules and avoid the use of measures that constitute hidden barriers to such trade;

9. promote research on fisheries as well as on associated ecosystems and relevant environmental factors; and

10. provide standards of conduct for all persons involved in the fisheries sector.

Article 3

RELATIONSHIP WITH OTHER INTERNATIONAL INSTRUMENTS

1. The Code is to be interpreted and applied in conformity with the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea, 1982. Nothing in this Code prejudices the rights, jurisdiction and duties of States under international law as reflected in the Convention.

2. The Code is also to be interpreted and applied:

   a. in a manner consistent with the relevant provisions of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;

   b. in accordance with other applicable rules of international law, including the respective obligations of States pursuant to international agreements to which they are party; and

   c. in the light of the 1992 Declaration of Cancun, the 1992 Rio Declaration on Environment and Development, and Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED), in particular Chapter 17 of Agenda 21, and other relevant declarations and international instruments.

Article 4

IMPLEMENTATION, MONITORING AND UPDATING

1. All members and non-members of FAO, fishing entities and relevant subregional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation, manage-

ment and utilization of fisheries resources and trade in fish and fishery products should collaborate in the fulfilment and implementation of the objectives and principles contained in this Code.

2. FAO, in accordance with its role within the United Nations system, will monitor the application and implementation of the Code and its effects on fisheries and the Secretariat will report accordingly to the Committee on Fisheries (COFI). All States, whether members or non-members of FAO, as well as relevant international organizations, whether governmental or non-governmental should actively cooperate with FAO in this work.

3. FAO, through its competent bodies, may revise the Code, taking into account developments in fisheries as well as reports to COFI on the implementation of the Code.

4. States and international organizations, whether governmental or non-governmental, should promote the understanding of the Code among those involved in fisheries, including, where practicable, by the introduction of schemes which would promote voluntary acceptance of the Code and its effective application.

Article 5

SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

1. The capacity of developing countries to implement the recommendations of this Code should be duly taken into account.

2. In order to achieve the objectives of this Code and to support its effective implementation, countries, relevant international organizations, whether governmental or non-governmental, and financial institutions should give full recognition to the special circumstances and requirements of developing countries, including in particular the least-developed among them, and small island developing countries. States, relevant intergovernmental and non-governmental organizations and financial institutions should work for the adoption of measures to address the needs of developing countries, especially in the areas of financial and technical assistance, technology transfer, training and scientific cooperation and in enhancing their ability to develop their own fisheries as well as to participate in high seas fisheries, including access to such fisheries.

Article 6

GENERAL PRINCIPLES

1. States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources.

2. Fisheries management should promote the maintenance of the quality, diversity and availability of fishery resources in sufficient quantities for present and future generations in the context of food security, poverty alleviation and sustainable development. Management measures should not only ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species.

3. States should prevent overfishing and excess fishing capacity and should implement management measures to ensure that fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate.

4. Conservation and management decisions for fisheries should be based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic and social factors. States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate.

5. States and subregional and regional fisheries management organizations should apply a precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment, taking account of the best scientific evidence available. The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment.

6. Selective and environmentally safe fishing gear and practices should be further developed and applied, to the extent practicable, in order to maintain biodiversity and to conserve the population structure and aquatic ecosystems and protect fish quality. Where proper selective and environmentally safe fishing gear and practices exist, they should be recognized and accorded a priority in establishing conservation and management measures for fisheries. States and users of aquatic ecosystems should minimize waste, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species.

7. The harvesting, handling, processing and distribution of fish and fishery products should be carried out in a manner which will maintain the nutritional value, quality and safety of the products, reduce waste and minimize negative impacts on the environment.

8. All critical fisheries habitats in marine and fresh water ecosystems, such as wetlands, mangroves, reefs, lagoons, nursery and spawning areas, should be protected and rehabilitated as far as possible and where necessary. Particular effort should be made to protect such habitats from destruction, degradation, pollution and other significant impacts resulting from human activities that threaten the health and viability of the fishery resources.

9. States should ensure that their fisheries interests, including the need for conservation of the resources, are taken into account in the multiple uses of the coastal zone and are integrated into coastal area management, planning and development.

10. Within their respective competences and in accordance with international law, including within the framework of subregional or regional fisheries conservation and management organizations or arrangements, States should ensure compliance with and enforcement of conservation and management measures and establish effective mechanisms, as appropriate, to monitor and control the activities of fishing vessels and fishing support vessels.

11. States authorizing fishing and fishing support vessels to fly their flags should exercise effective control over those vessels so as to ensure the proper application of this Code. They should ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels. States should also ensure that vessels flying their flags fulfil their obligations concerning the collection and provision of data relating to their fishing activities.

12. States should, within their respective competences and in accordance with international law, cooperate at subregional, regional and global levels through fisheries management organizations, other international agreements or other arrangements to promote conservation and management, ensure responsible fishing and ensure effective conservation and protection of living aquatic resources throughout their range of distribution, taking into account the need for compatible measures in areas within and beyond national jurisdiction.

13. States should, to the extent permitted by national laws and regulations, ensure that decision making processes are transparent and achieve timely solutions to urgent matters. States, in accordance with appropriate procedures, should facilitate consultation and the effective participation of industry, fishworkers, environmental and other interested organizations in decision making with respect to the development of laws and policies related to fisheries management, development, international lending and aid.

14. International trade in fish and fishery products should be conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement and other relevant international agreements. States should ensure that their policies, programmes and practices related to trade in fish and fishery products do not result in obstacles to this trade, environmental degradation or negative social, including nutritional, impacts.

15. States should cooperate in order to prevent disputes. All disputes relating to fishing activities and practices should be resolved in a timely, peaceful and cooperative manner, in accordance with applicable international agreements or as may otherwise be agreed between the parties. Pending settlement of a dispute, the States con-

cerned should make every effort to enter into provisional arrangements of a practical nature which should be without prejudice to the final outcome of any dispute settlement procedure.

16. States, recognising the paramount importance to fishers and fishfarmers of understanding the conservation and management of the fishery resources on which they depend, should promote awareness of responsible fisheries through education and training. They should ensure that fishers and fishfarmers are involved in the policy formulation and implementation process, also with a view to facilitating the implementation of the Code.

17. States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.

18. Recognizing the important contributions of artisanal and small- scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

19. States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.

Article 7

FISHERIES MANAGEMENT

7.1 General

1. States and all those engaged in fisheries management should, through an appropriate policy, legal and institutional framework, adopt measures for the long-term conservation and sustainable use of fisheries resources. Conservation and management measures, whether at local, national, subregional or regional levels, should be based on the best scientific evidence available and be designed to ensure the long-term sustainability of fishery resources at levels which promote the objective of their optimum utilization and maintain their availability for present and future generations; short term considerations should not compromise these objectives.

2. Within areas under national jurisdiction, States should seek to identify relevant domestic parties having a legitimate interest in the use and management of fisheries resources and establish arrangements for consulting them to gain their collaboration in achieving responsible fisheries.

3. For transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks, where these are exploited by two or more States, the States concerned, including the relevant coastal States in the case of straddling and highly migratory stocks, should cooperate to ensure effective conservation and management of the resources. This should be achieved, where appropriate, through the establishment of a bilateral, subregional or regional fisheries organization or arrangement.

4. A subregional or regional fisheries management organization or arrangement should include representatives of States in whose jurisdictions the resources occur, as well as representatives from States which have a real interest in the fisheries on the resources outside national jurisdictions. Where a subregional or regional fisheries management organization or arrangement exists and has the competence to establish conservation and management measures, those States should cooperate by becoming a member of such organization or a participant in such arrangement, and actively participate in its work.

5. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement should nevertheless cooperate, in accordance with relevant international agreements and international law, in the conservation and management of the relevant fisheries resources by giving effect to any conservation and management measures adopted by such organization or arrangement.

6. Representatives from relevant organizations, both governmental and non-governmental, concerned with

fisheries should be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such representatives should be given timely access to the records and reports of such meetings, subject to the procedural rules on access to them.

7. States should establish, within their respective competences and capacities, effective mechanisms for fisheries monitoring, surveillance, control and enforcement to ensure compliance with their conservation and management measures, as well as those adopted by subregional or regional organizations or arrangements.

8. States should take measures to prevent or eliminate excess fishing capacity and should ensure that levels of fishing effort are commensurate with the sustainable use of fishery resources as a means of ensuring the effectiveness of conservation and management measures.

9. States and subregional or regional fisheries management organizations and arrangements should ensure transparency in the mechanisms for fisheries management and in the related decision-making process.

10. States and subregional or regional fisheries management organizations and arrangements should give due publicity to conservation and management measures and ensure that laws, regulations and other legal rules governing their implementation are effectively disseminated. The bases and purposes of such measures should be explained to users of the resource in order to facilitate their application and thus gain increased support in the implementation of such measures.

7.2 Management objectives

1. Recognizing that long-term sustainable use of fisheries resources is the overriding objective of conservation and management, States and subregional or regional fisheries management organizations and arrangements should, inter alia, adopt appropriate measures, based on the best scientific evidence available, which are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing countries.

2. Such measures should provide inter alia that:

   a. excess fishing capacity is avoided and exploitation of the stocks remains economically viable;

   b. the economic conditions under which fishing industries operate promote responsible fisheries;

   c. the interests of fishers, including those engaged in subsistence, small-scale and artisanal fisheries, are taken into account;

   d. biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected;

   e. depleted stocks are allowed to recover or, where appropriate, are actively restored;

   f. adverse environmental impacts on the resources from human activities are assessed and, where appropriate, corrected; and

   g. pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non- fish species, and impacts on associated or dependent species are minimized, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

3. States should assess the impacts of environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks, and assess the relationship among the populations in the ecosystem.

7.3 Management framework and procedures

1. To be effective, fisheries management should be concerned with the whole stock unit over its entire area of distribution and take into account previously agreed management measures established and applied in the same region, all removals and the biological unity and other biological characteristics of the stock. The best scientific

evidence available should be used to determine, inter alia, the area of distribution of the resource and the area through which it migrates during its life cycle.

2. In order to conserve and manage transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks throughout their range, conservation and management measures established for such stocks in accordance with the respective competences of relevant States or, where appropriate, through subregional and regional fisheries management organizations and arrangements, should be compatible. Compatibility should be achieved in a manner consistent with the rights, competences and interests of the States concerned.

3. Long-term management objectives should be translated into management actions, formulated as a fishery management plan or other management framework.

4. States and, where appropriate, subregional or regional fisheries management organizations and arrangements should foster and promote international cooperation and coordination in all matters related to fisheries, including information gathering and exchange, fisheries research, management and development.

5. States seeking to take any action through a non-fishery organization which may affect the conservation and management measures taken by a competent subregional or regional fisheries management organization or arrangement should consult with the latter, in advance to the extent practicable, and take its views into account.

7.4 Data gathering and management advice

1. When considering the adoption of conservation and management measures, the best scientific evidence available should be taken into account in order to evaluate the current state of the fishery resources and the possible impact of the proposed measures on the resources.

2. Research in support of fishery conservation and management should be promoted, including research on the resources and on the effects of climatic, environmental and socio-economic factors. The results of such research should be disseminated to interested parties.

3. Studies should be promoted which provide an understanding of the costs, benefits and effects of alternative management options designed to rationalize fishing, in particular, options relating to excess fishing capacity and excessive levels of fishing effort.

4. States should ensure that timely, complete and reliable statistics on catch and fishing effort are collected and maintained in accordance with applicable international standards and practices and in sufficient detail to allow sound statistical analysis. Such data should be updated regularly and verified through an appropriate system. States should compile and disseminate such data in a manner consistent with any applicable confidentiality requirements.

5. In order to ensure sustainable management of fisheries and to enable social and economic objectives to be achieved, sufficient knowledge of social, economic and institutional factors should be developed through data gathering, analysis and research.

6. States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organizations or arrangements in an internationally agreed format and provide them in a timely manner to the organization or arrangement. In cases of stocks which occur in the jurisdiction of more than one State and for which there is no such organization or arrangement, the States concerned should agree on a mechanism for cooperation to compile and exchange such data.

7. Subregional or regional fisheries management organizations or arrangements should compile data and make them available, in a manner consistent with any applicable confidentiality requirements, in a timely manner and in an agreed format to all members of these organizations and other interested parties in accordance with agreed procedures.

7.5 Precautionary approach

1. States should apply the precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and manage-

ment measures.

2. In implementing the precautionary approach, States should take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities, including discards, on non-target and associated or dependent species, as well as environmental and socio-economic conditions.

3. States and subregional or regional fisheries management organizations and arrangements should, on the basis of the best scientific evidence available, inter alia, determine:

a. stock specific target reference points, and, at the same time, the action to be taken if they are exceeded; and

b. stock-specific limit reference points, and, at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded.

4. In the case of new or exploratory fisheries, States should adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures should remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment should be implemented. The latter measures should, if appropriate, allow for the gradual development of the fisheries.

5. If a natural phenomenon has a significant adverse impact on the status of living aquatic resources, States should adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States should also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such resources. Measures taken on an emergency basis should be temporary and should be based on the best scientific evidence available.

7.6 Management measures

1. States should ensure that the level of fishing permitted is commensurate with the state of fisheries resources.

2. States should adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with international law for the high seas or in conformity with national legislation within areas of national jurisdiction.

3. Where excess fishing capacity exists, mechanisms should be established to reduce capacity to levels commensurate with the sustainable use of fisheries resources so as to ensure that fishers operate under economic conditions that promote responsible fisheries. Such mechanisms should include monitoring the capacity of fishing fleets.

4. The performance of all existing fishing gear, methods and practices should be examined and measures taken to ensure that fishing gear, methods and practices which are not consistent with responsible fishing are phased out and replaced with more acceptable alternatives. In this process, particular attention should be given to the impact of such measures on fishing communities, including their ability to exploit the resource.

5. States and fisheries management organizations and arrangements should regulate fishing in such a way as to avoid the risk of conflict among fishers using different vessels, gear and fishing methods.

6. When deciding on the use, conservation and management of fisheries resources, due recognition should be given, as appropriate, in accordance with national laws and regulations, to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resources for their livelihood.

7. In the evaluation of alternative conservation and management measures, their cost-effectiveness and social impact should be considered.

8. The efficacy of conservation and management measures and their possible interactions should be kept

under continuous review. Such measures should, as appropriate, be revised or abolished in the light of new information.

9. States should take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and negative impacts on associated or dependent species, in particular endangered species. Where appropriate, such measures may include technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries. Such measures should be applied, where appropriate, to protect juveniles and spawners. States and subregional or regional fisheries management organizations and arrangements should promote, to the extent practicable, the development and use of selective, environmentally safe and cost effective gear and techniques.

10. States and subregional and regional fisheries management organizations and arrangements, in the framework of their respective competences, should introduce measures for depleted resources and those resources threatened with depletion that facilitate the sustained recovery of such stocks. They should make every effort to ensure that resources and habitats critical to the well-being of such resources which have been adversely affected by fishing or other human activities are restored.

7.7 Implementation

1. States should ensure that an effective legal and administrative framework at the local and national level, as appropriate, is established for fisheries resource conservation and fisheries management.

2. States should ensure that laws and regulations provide for sanctions applicable in respect of violations which are adequate in severity to be effective, including sanctions which allow for the refusal, withdrawal or suspension of authorizations to fish in the event of non-compliance with conservation and management measures in force.

3. States, in conformity with their national laws, should implement effective fisheries monitoring, control, surveillance and law enforcement measures including, where appropriate, observer programmes, inspection schemes and vessel monitoring systems. Such measures should be promoted and, where appropriate, implemented by subregional or regional fisheries management organizations and arrangements in accordance with procedures agreed by such organizations or arrangements.

4. States and subregional or regional fisheries management organizations and arrangements, as appropriate, should agree on the means by which the activities of such organizations and arrangements will be financed, bearing in mind, inter alia, the relative benefits derived from the fishery and the differing capacities of countries to provide financial and other contributions. Where appropriate, and when possible, such organizations and arrangements should aim to recover the costs of fisheries conservation, management and research.

5. States which are members of or participants in subregional or regional fisheries management organizations or arrangements should implement internationally agreed measures adopted in the framework of such organizations or arrangements and consistent with international law to deter the activities of vessels flying the flag of non-members or non-participants which engage in activities which undermine the effectiveness of conservation and management measures established by such organizations or arrangements.

7.8 Financial institutions

1. Without prejudice to relevant international agreements, States should encourage banks and financial institutions not to require, as a condition of a loan or mortgage, fishing vessels or fishing support vessels to be flagged in a jurisdiction other than that of the State of beneficial ownership where such a requirement would have the effect of increasing the likelihood of non-compliance with international conservation and management measures.

Article 8

FISHING OPERATIONS

8.1 Duties of all States

1. States should ensure that only fishing operations allowed by them are conducted within waters under their jurisdiction and that these operations are carried out in a responsible manner.

2. States should maintain a record, updated at regular intervals, on all authorizations to fish issued by them.

3. States should maintain, in accordance with recognized international standards and practices, statistical data, updated at regular intervals, on all fishing operations allowed by them.

4. States should, in accordance with international law, within the framework of subregional or regional fisheries management organizations or arrangements, cooperate to establish systems for monitoring, control, surveillance and enforcement of applicable measures with respect to fishing operations and related activities in waters outside their national jurisdiction.

5. States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

6. States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems.

7. States should enhance through education and training programmes the education and skills of fishers and, where appropriate, their professional qualifications. Such programmes should take into account agreed international standards and guidelines.

8. States should, as appropriate, maintain records of fishers which should, whenever possible, contain information on their service and qualifications, including certificates of competency, in accordance with their national laws.

9. States should ensure that measures applicable in respect of masters and other officers charged with an offence relating to the operation of fishing vessels should include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers of a fishing vessel.

10. States, with the assistance of relevant international organizations, should endeavour to ensure through education and training that all those engaged in fishing operations be given information on the most important provisions of this Code, as well as provisions of relevant international conventions and applicable environmental and other standards that are essential to ensure responsible fishing operations.

8.2 Flag State duties

1. Flag States should maintain records of fishing vessels entitled to fly their flag and authorized to be used for fishing and should indicate in such records details of the vessels, their ownership and authorization to fish.

2. Flag States should ensure that no fishing vessels entitled to fly their flag fish on the high seas or in waters under the jurisdiction of other States unless such vessels have been issued with a Certificate of Registry and have been authorized to fish by the competent authorities. Such vessels should carry on board the Certificate of Registry and their authorization to fish.

3. Fishing vessels authorized to fish on the high seas or in waters under the jurisdiction of a State other than the flag State, should be marked in accordance with uniform and internationally recognizable vessel marking systems such as the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels.

4. Fishing gear should be marked in accordance with national legislation in order that the owner of the gear can be identified. Gear marking requirements should take into account uniform and internationally recognizable gear marking systems.

5. Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.

6. States not party to the Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas should be encouraged to accept the Agreement and to adopt laws and regulations consistent with the provisions of the Agreement.

7. Flag States should take enforcement measures in respect of fishing vessels entitled to fly their flag which have been found by them to have contravened applicable conservation and management measures, including, where appropriate, making the contravention of such measures an offence under national legislation. Sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities. Such sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish.

8. Flag States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.

9. Flag States should ensure that crew members are entitled to repatriation, taking account of the principles laid down in the "Repatriation of Seafarers Convention (Revised), 1987, (No.166)".

10. In the event of an accident to a fishing vessel or persons on board a fishing vessel, the flag State of the fishing vessel concerned should provide details of the accident to the State of any foreign national on board the vessel involved in the accident. Such information should also, where practicable, be communicated to the International Maritime Organization.

8.3 Port State duties

1. Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

2. Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.

8.4 Fishing activities

1. States should ensure that fishing is conducted with due regard to the safety of human life and the International Maritime Organization International Regulations for Preventing Collisions at Sea, as well as International Maritime Organization requirements relating to the organization of marine traffic, protection of the marine environment and the prevention of damage to or loss of fishing gear.

2. States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

3. States should make every effort to ensure that documentation with regard to fishing operations, retained catch of fish and non-fish species and, as regards discards, the information required for stock assessment as decided by relevant management bodies, is collected and forwarded systematically to those bodies. States should, as far as possible, establish programmes, such as observer and inspection schemes, in order to promote compliance with applicable measures.

4. States should promote the adoption of appropriate technology, taking into account economic conditions, for the best use and care of the retained catch.

5. States, with relevant groups from industry, should encourage the development and implementation of technologies and operational methods that reduce discards. The use of fishing gear and practices that lead to the discarding of catch should be discouraged and the use of fishing gear and practices that increase survival rates of

escaping fish should be promoted.

6. States should cooperate to develop and apply technologies, materials and operational methods that minimize the loss of fishing gear and the ghost fishing effects of lost or abandoned fishing gear.

7. States should ensure that assessments of the implications of habitat disturbance are carried out prior to the introduction on a commercial scale of new fishing gear, methods and operations to an area.

8. Research on the environmental and social impacts of fishing gear and, in particular, on the impact of such gear on biodiversity and coastal fishing communities should be promoted.

8.5 Fishing gear selectivity

1. States should require that fishing gear, methods and practices, to the extent practicable, are sufficiently selective so as to minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species and that the intent of related regulations is not circumvented by technical devices. In this regard, fishers should cooperate in the development of selective fishing gear and methods. States should ensure that information on new developments and requirements is made available to all fishers.

2. In order to improve selectivity, States should, when drawing up their laws and regulations, take into account the range of selective fishing gear, methods and strategies available to the industry.

3. States and relevant institutions should collaborate in developing standard methodologies for research into fishing gear selectivity, fishing methods and strategies.

4. International cooperation should be encouraged with respect to research programmes for fishing gear selectivity, and fishing methods and strategies, dissemination of the results of such research programmes and the transfer of technology.

8.6 Energy optimization

1. States should promote the development of appropriate standards and guidelines which would lead to the more efficient use of energy in harvesting and post-harvest activities within the fisheries sector.

2. States should promote the development and transfer of technology in relation to energy optimization within the fisheries sector and, in particular, encourage owners, charterers and managers of fishing vessels to fit energy optimization devices to their vessels.

8.7 Protection of the aquatic environment

1. States should introduce and enforce laws and regulations based on the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

2. Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with appropriate equipment as required by MARPOL 73/78 and should consider fitting a shipboard compactor or incinerator to relevant classes of vessels in order to treat garbage and other shipboard wastes generated during the vessel's normal service.

3. Owners, charterers and managers of fishing vessels should minimize the taking aboard of potential garbage through proper provisioning practices.

4. The crew of fishing vessels should be conversant with proper shipboard procedures in order to ensure discharges do not exceed the levels set by MARPOL 73/78. Such procedures should, as a minimum, include the disposal of oily waste and the handling and storage of shipboard garbage.

8.8 Protection of the atmosphere

1. States should adopt relevant standards and guidelines which would include provisions for the reduction of dangerous substances in exhaust gas emissions.

2. Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with equipment to reduce emissions of ozone depleting substances. The responsible crew members of fishing vessels should be conversant with the proper running and maintenance of machinery on board.

3. Competent authorities should make provision for the phasing out of the use of chlorofluorocarbons (CFCs) and transitional substances such as hydrochlorofluorocarbons (HCFCs) in the refrigeration systems of fishing vessels and should ensure that the shipbuilding industry and those engaged in the fishing industry are informed of and comply with such provisions.

4. Owners or managers of fishing vessels should take appropriate action to refit existing vessels with alternative refrigerants to CFCs and HCFCs and alternatives to Halons in fire fighting installations. Such alternatives should be used in specifications for all new fishing vessels.

5. States and owners, charterers and managers of fishing vessels as well as fishers should follow international guidelines for the disposal of CFCs, HCFCs and Halons.

8.9 Harbours and landing places for fishing vessels

1. States should take into account, inter alia, the following in the design and construction of harbours and landing places:

a. safe havens for fishing vessels and adequate servicing facilities for vessels, vendors and buyers are provided;

b. adequate freshwater supplies and sanitation arrangements should be provided;

c. waste disposal systems should be introduced, including for the disposal of oil, oily water and fishing gear;

d. pollution from fisheries activities and external sources should be minimized; and

e. arrangements should be made to combat the effects of erosion and siltation.

2. States should establish an institutional framework for the selection or improvement of sites for harbours for fishing vessels which allows for consultation among the authorities responsible for coastal area management.

8.10 Abandonment of structures and other materials

1. States should ensure that the standards and guidelines for the removal of redundant offshore structures issued by the International Maritime Organization are followed. States should also ensure that the competent fisheries authorities are consulted prior to decisions being made on the abandonment of structures and other materials by the relevant authorities.

8.11 Artificial reefs and fish aggregation devices

1. States, where appropriate, should develop policies for increasing stock populations and enhancing fishing opportunities through the use of artificial structures, placed with due regard to the safety of navigation, on or above the seabed or at the surface. Research into the use of such structures, including the impacts on living marine resources and the environment, should be promoted.

2. States should ensure that, when selecting the materials to be used in the creation of artificial reefs as well as when selecting the geographical location of such artificial reefs, the provisions of relevant international conventions concerning the environment and safety of navigation are observed.

3. States should, within the framework of coastal area management plans, establish management systems for artificial reefs and fish aggregation devices. Such management systems should require approval for the construction and deployment of such reefs and devices and should take into account the interests of fishers, including artisanal and subsistence fishers.

4. States should ensure that the authorities responsible for maintaining cartographic records and charts for

the purpose of navigation, as well as relevant environmental authorities, are informed prior to the placement or removal of artificial reefs or fish aggregation devices.

Article 9

AQUACULTURE DEVELOPMENT

9.1 Responsible development of aquaculture, including culture-based fisheries, in areas under national jurisdiction

1. States should establish, maintain and develop an appropriate legal and administrative framework which facilitates the development of responsible aquaculture.

2. States should promote responsible development and management of aquaculture, including an advance evaluation of the effects of aquaculture development on genetic diversity and ecosystem integrity, based on the best available scientific information.

3. States should produce and regularly update aquaculture development strategies and plans, as required, to ensure that aquaculture development is ecologically sustainable and to allow the rational use of resources shared by aquaculture and other activities.

4. States should ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments.

5. States should establish effective procedures specific to aquaculture to undertake appropriate environmental assessment and monitoring with the aim of minimizing adverse ecological changes and related economic and social consequences resulting from water extraction, land use, discharge of effluents, use of drugs and chemicals, and other aquaculture activities.

9.2 Responsible development of aquaculture including culture-based fisheries within transboundary aquatic ecosystems

1. States should protect transboundary aquatic ecosystems by supporting responsible aquaculture practices within their national jurisdiction and by cooperation in the promotion of sustainable aquaculture practices.

2. States should, with due respect to their neighbouring States, and in accordance with international law, ensure responsible choice of species, siting and management of aquaculture activities which could affect transboundary aquatic ecosystems.

3. States should consult with their neighbouring States, as appropriate, before introducing non-indigenous species into transboundary aquatic ecosystems.

4. States should establish appropriate mechanisms, such as databases and information networks to collect, share and disseminate data related to their aquaculture activities to facilitate cooperation on planning for aquaculture development at the national, subregional, regional and global level.

5. States should cooperate in the development of appropriate mechanisms, when required, to monitor the impacts of inputs used in aquaculture.

9.3 Use of aquatic genetic resources for the purposes of aquaculture including culture-based fisheries

1. States should conserve genetic diversity and maintain integrity of aquatic communities and ecosystems by appropriate management. In particular, efforts should be undertaken to minimize the harmful effects of introducing non-native species or genetically altered stocks used for aquaculture including culture-based fisheries into waters, especially where there is a significant potential for the spread of such non-native species or genetically altered stocks into waters under the jurisdiction of other States as well as waters under the jurisdiction of the State of origin. States should, whenever possible, promote steps to minimize adverse genetic, disease and other effects of escaped farmed fish on wild stocks.

2. States should cooperate in the elaboration, adoption and implementation of international codes of practice and procedures for introductions and transfers of aquatic organisms.

3. States should, in order to minimize risks of disease transfer and other adverse effects on wild and cultured stocks, encourage adoption of appropriate practices in the genetic improvement of broodstocks, the introduction of non-native species, and in the production, sale and transport of eggs, larvae or fry, broodstock or other live materials. States should facilitate the preparation and implementation of appropriate national codes of practice and procedures to this effect.

4. States should promote the use of appropriate procedures for the selection of broodstock and the production of eggs, larvae and fry.

5. States should, where appropriate, promote research and, when feasible, the development of culture techniques for endangered species to protect, rehabilitate and enhance their stocks, taking into account the critical need to conserve genetic diversity of endangered species.

9.4 Responsible aquaculture at the production level

1. States should promote responsible aquaculture practices in support of rural communities, producer organizations and fish farmers.

2. States should promote active participation of fishfarmers and their communities in the development of responsible aquaculture management practices.

3. States should promote efforts which improve selection and use of appropriate feeds, feed additives and fertilizers, including manures.

4. States should promote effective farm and fish health management practices favouring hygienic measures and vaccines. Safe, effective and minimal use of therapeutants, hormones and drugs, antibiotics and other disease control chemicals should be ensured.

5. States should regulate the use of chemical inputs in aquaculture which are hazardous to human health and the environment.

6. States should require that the disposal of wastes such as offal, sludge, dead or diseased fish, excess veterinary drugs and other hazardous chemical inputs does not constitute a hazard to human health and the environment.

7. States should ensure the food safety of aquaculture products and promote efforts which maintain product quality and improve their value through particular care before and during harvesting and on-site processing and in storage and transport of the products.

Article 10

INTEGRATION OF FISHERIES INTO COASTAL AREA MANAGEMENT

10.1 Institutional framework

1. States should ensure that an appropriate policy, legal and institutional framework is adopted to achieve the sustainable and integrated use of the resources, taking into account the fragility of coastal ecosystems and the finite nature of their natural resources and the needs of coastal communities.

2. In view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes and involved in other activities related to coastal area management planning and development.

3. States should develop, as appropriate, institutional and legal frameworks in order to determine the possible uses of coastal resources and to govern access to them taking into account the rights of coastal fishing com-

munities and their customary practices to the extent compatible with sustainable development.

4. States should facilitate the adoption of fisheries practices that avoid conflict among fisheries resources users and between them and other users of the coastal area.

5. States should promote the establishment of procedures and mechanisms at the appropriate administrative level to settle conflicts which arise within the fisheries sector and between fisheries resource users and other users of the coastal area.

10.2 Policy measures

1. States should promote the creation of public awareness of the need for the protection and management of coastal resources and the participation in the management process by those affected.

2. In order to assist decision-making on the allocation and use of coastal resources, States should promote the assessment of their respective value taking into account economic, social and cultural factors.

3. In setting policies for the management of coastal areas, States should take due account of the risks and uncertainties involved.

4. States, in accordance with their capacities, should establish or promote the establishment of systems to monitor the coastal environment as part of the coastal management process using physical, chemical, biological, economic and social parameters.

5. States should promote multi-disciplinary research in support of coastal area management, in particular on its environmental, biological, economic, social, legal and institutional aspects.

10.3 Regional cooperation

1. States with neighbouring coastal areas should cooperate with one another to facilitate the sustainable use of coastal resources and the conservation of the environment.

2. In the case of activities that may have an adverse transboundary environmental effect on coastal areas, States should:

a. provide timely information and, if possible, prior notification to potentially affected States; and

b. consult with those States as early as possible.

3. States should cooperate at the subregional and regional level in order to improve coastal area management.

10.4 Implementation

1. States should establish mechanisms for cooperation and coordination among national authorities involved in planning, development, conservation and management of coastal areas.

2. States should ensure that the authority or authorities representing the fisheries sector in the coastal management process have the appropriate technical capacities and financial resources.

Article 11

POST-HARVEST PRACTICES AND TRADE

11.1 Responsible fish utilization

1. States should adopt appropriate measures to ensure the right of consumers to safe, wholesome and unadulterated fish and fishery products.

2. States should establish and maintain effective national safety and quality assurance systems to protect consumer health and prevent commercial fraud.

3. States should set minimum standards for safety and quality assurance and make sure that these standards are effectively applied throughout the industry. They should promote the implementation of quality standards agreed within the context of the FAO/WHO Codex Alimentarius Commission and other relevant organizations or arrangements.

4. States should cooperate to achieve harmonization, or mutual recognition, or both, of national sanitary measures and certification programmes as appropriate and explore possibilities for the establishment of mutually recognized control and certification agencies.

5. States should give due consideration to the economic and social role of the post-harvest fisheries sector when formulating national policies for the sustainable development and utilization of fishery resources.

6. States and relevant organizations should sponsor research in fish technology and quality assurance and support projects to improve post-harvest handling of fish, taking into account the economic, social, environmental and nutritional impact of such projects.

7. States, noting the existence of different production methods, should through cooperation and by facilitating the development and transfer of appropriate technologies, ensure that processing, transporting and storage methods are environmentally sound.

8. States should encourage those involved in fish processing, distribution and marketing to:

   a. reduce post-harvest losses and waste;

   b. improve the use of by-catch to the extent that this is consistent with responsible fisheries management practices; and

   c. use the resources, especially water and energy, in particular wood, in an environmentally sound manner.

9. States should encourage the use of fish for human consumption and promote consumption of fish whenever appropriate.

10. States should cooperate in order to facilitate the production of value-added products by developing countries.

11. States should ensure that international and domestic trade in fish and fishery products accords with sound conservation and management practices through improving the identification of the origin of fish and fishery products traded.

12. States should ensure that environmental effects of post- harvest activities are considered in the development of related laws, regulations and policies without creating any market distortions.

11.2 Responsible international trade

1. The provisions of this Code should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement.

2. International trade in fish and fishery products should not compromise the sustainable development of fisheries and responsible utilization of living aquatic resources.

3. States should ensure that measures affecting international trade in fish and fishery products are transparent, based, when applicable, on scientific evidence, and are in accordance with internationally agreed rules.

4. Fish trade measures adopted by States to protect human or animal life or health, the interests of consumers or the environment, should not be discriminatory and should be in accordance with internationally agreed trade rules, in particular the principles, rights and obligations established in the Agreement on the Application of

Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade of the WTO.

5. States should further liberalize trade in fish and fishery products and eliminate barriers and distortions to trade such as duties, quotas and non-tariff barriers in accordance with the principles, rights and obligations of the WTO Agreement.

6. States should not directly or indirectly create unnecessary or hidden barriers to trade which limit the consumer's freedom of choice of supplier or that restrict market access.

7. States should not condition access to markets to access to resources. This principle does not preclude the possibility of fishing agreements between States which include provisions referring to access to resources, trade and access to markets, transfer of technology, scientific research, training and other relevant elements.

8. States should not link access to markets to the purchase of specific technology or sale of other products.

9. States should cooperate in complying with relevant international agreements regulating trade in endangered species.

10. States should develop international agreements for trade in live specimens where there is a risk of environmental damage in importing or exporting States.

11. States should cooperate to promote adherence to, and effective implementation of relevant international standards for trade in fish and fishery products and living aquatic resource conservation.

12. States should not undermine conservation measures for living aquatic resources in order to gain trade or investment benefits.

13. States should cooperate to develop internationally acceptable rules or standards for trade in fish and fishery products in accordance with the principles, rights, and obligations established in the WTO Agreement.

14. States should cooperate with each other and actively participate in relevant regional and multilateral fora, such as the WTO, in order to ensure equitable, non-discriminatory trade in fish and fishery products as well as wide adherence to multilaterally agreed fishery conservation measures.

15. States, aid agencies, multilateral development banks and other relevant international organizations should ensure that their policies and practices related to the promotion of international fish trade and export production do not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish is critical to their health and well being and for whom other comparable sources of food are not readily available or affordable.

11.3 Laws and regulations relating to fish trade

1. Laws, regulations and administrative procedures applicable to international trade in fish and fishery products should be transparent, as simple as possible, comprehensible and, when appropriate, based on scientific evidence.

2. States, in accordance with their national laws, should facilitate appropriate consultation with and participation of industry as well as environmental and consumer groups in the development and implementation of laws and regulations related to trade in fish and fishery products.

3. States should simplify their laws, regulations and administrative procedures applicable to trade in fish and fishery products without jeopardizing their effectiveness.

4. When a State introduces changes to its legal requirements affecting trade in fish and fishery products with other States, sufficient information and time should be given to allow the States and producers affected to introduce, as appropriate, the changes needed in their processes and procedures. In this connection, consultation with affected States on the time frame for implementation of the changes would be desirable. Due consideration should be given to requests from developing countries for temporary derogations from obligations.

5. States should periodically review laws and regulations applicable to international trade in fish and fishery

products in order to determine whether the conditions which gave rise to their introduction continue to exist.

6. States should harmonize as far as possible the standards applicable to international trade in fish and fishery products in accordance with relevant internationally recognized provisions.

7. States should collect, disseminate and exchange timely, accurate and pertinent statistical information on international trade in fish and fishery products through relevant national institutions and international organizations.

8. States should promptly notify interested States, WTO and other appropriate international organizations on the development of and changes to laws, regulations and administrative procedures applicable to international trade in fish and fishery products.

Article 12

FISHERIES RESEARCH

1. States should recognize that responsible fisheries requires the availability of a sound scientific basis to assist fisheries managers and other interested parties in making decisions. Therefore, States should ensure that appropriate research is conducted into all aspects of fisheries including biology, ecology, technology, environmental science, economics, social science, aquaculture and nutritional science. States should ensure the availability of research facilities and provide appropriate training, staffing and institution building to conduct the research, taking into account the special needs of developing countries.

2. States should establish an appropriate institutional framework to determine the applied research which is required and its proper use.

3. States should ensure that data generated by research are analyzed, that the results of such analyses are published, respecting confidentiality where appropriate, and distributed in a timely and readily understood fashion,in order that the best scientific evidence is made available as a contribution to fisheries conservation, management and development. In the absence of adequate scientific information, appropriate research should be initiated as soon as possible.

4. States should collect reliable and accurate data which are required to assess the status of fisheries and ecosystems, including data on bycatch, discards and waste. Where appropriate, this data should be provided, at an appropriate time and level of aggregation, to relevant States and subregional, regional and global fisheries organizations.

5. States should be able to monitor and assess the state of the stocks under their jurisdiction, including the impacts of ecosystem changes resulting from fishing pressure, pollution or habitat alteration. They should also establish the research capacity necessary to assess the effects of climate or environment change on fish stocks and aquatic ecosystems.

6. States should support and strengthen national research capabilities to meet acknowledged scientific standards.

7. States, as appropriate in cooperation with relevant international organizations, should encourage research to ensure optimum utilization of fishery resources and stimulate the research required to support national policies related to fish as food.

8. States should conduct research into, and monitor, human food supplies from aquatic sources and the environment from which they are taken and ensure that there is no adverse health impact on consumers. The results of such research should be made publicly available.

9. States should ensure that the economic, social, marketing and institutional aspects of fisheries are adequately researched and that comparable data are generated for ongoing monitoring, analysis and policy formulation.

10. States should carry out studies on the selectivity of fishing gear, the environmental impact of fishing gear on target species and on the behaviour of target and non-target species in relation to such fishing gear as an aid for management decisions and with a view to minimizing non-utilized catches as well as safeguarding the biodiversity of ecosystems and the aquatic habitat.

11. States should ensure that before the commercial introduction of new types of gear, a scientific evaluation of their impact on the fisheries and ecosystems where they will be used should be undertaken. The effects of such gear introductions should be monitored.

12. States should investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development.

13. States should promote the use of research results as a basis for the setting of management objectives, reference points and performance criteria, as well as for ensuring adequate linkages between applied research and fisheries management.

14. States conducting scientific research activities in waters under the jurisdiction of another State should ensure that their vessels comply with the laws and regulations of that State and international law.

15. States should promote the adoption of uniform guidelines governing fisheries research conducted on the high seas.

16. States should, where appropriate, support the establishment of mechanisms, including, inter alia, the adoption of uniform guidelines, to facilitate research at the subregional or regional level and should encourage the sharing of the results of such research with other regions.

17. States, either directly or with the support of relevant international organizations, should develop collaborative technical and research programmes to improve understanding of the biology, environment and status of transboundary aquatic stocks.

18. States and relevant international organizations should promote and enhance the research capacities of developing countries, inter alia, in the areas of data collection and analysis, information, science and technology, human resource development and provision of research facilities, in order for them to participate effectively in the conservation, management and sustainable use of living aquatic resources.

19. Competent international organizations should, where appropriate, render technical and financial support to States upon request and when engaged in research investigations aimed at evaluating stocks which have been previously unfished or very lightly fished.

20. Relevant technical and financial international organizations should, upon request, support States in their research efforts, devoting special attention to developing countries, in particular the least-developed among them and small island developing countries.

BACKGROUND TO THE ORIGIN AND ELABORATION OF THE CODE

1. This annex describes the process of elaboration and negotiation of the Code, which led to its submission for adoption to the Twenty-eighth Session of the FAO Conference. It has been felt useful to annex this section as a reference to the origin and the development of the Code and thus reflect the interest generated and the spirit of compromise of all the parties involved in its elaboration. It is hoped that this will contribute to the promotion of the commitment necessary for its implementation.

2. At various international fora, concern had long been expressed regarding the clear signs of over-exploitation of important fish stocks, damage to ecosystems, economic losses, and issues affecting fish trade - all of which threatened the long-term sustainability of fisheries and, in turn, harmed the contribution of fisheries to food supply. In discussing the current state and prospects of world fisheries, the Nineteenth Session of the FAO Committee on Fisheries (COFI), held in March 1991, recommended that FAO should develop the concept of responsible fisheries and elaborate a Code of Conduct to this end.

3. Subsequently, the Government of Mexico, in collaboration with FAO, organized an International Conference on Responsible Fishing in Cancûn, in May 1992. The Declaration of Cancûn endorsed at that Conference further developed the concept of responsible fisheries, stating that "this concept encompasses the sustainable utilization of fisheries resources in harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality; the incorporation of added value to such products through transformation processes meeting the required sanitary standards; the conduct of commercial practices so as to provide consumers access to good quality products".

4. The Cancûn Declaration was brought to the attention of the UNCED Rio Summit in June 1992, which supported the preparation of a Code of Conduct for Responsible Fisheries. The FAO Technical Consultation on High Seas Fishing, held in September 1992, further recommended the elaboration of a Code to address the issues regarding high seas fisheries.

5. The One Hundred and Second Session of the FAO Council, held in November 1992, discussed the elaboration of the Code, recommending that priority be given to high seas issues and requested that proposals for the Code be presented to the 1993 session of the Committee on Fisheries.

6. The Twentieth Session of COFI, held in March 1993, examined general principles for such a Code, including the elaboration of guidelines and endorsed a timeframe for the further elaboration of the Code. It also requested FAO to prepare, on a "fast track" basis, as part of the Code, proposals to prevent reflagging of fishing vessels which affect conservation and management measures on the high seas.

7. The further development of the Code of Conduct for Responsible Fisheries was accordingly carried out in consultation and collaboration with relevant United Nations Agencies and other international organizations including non-governmental organizations.

8. In pursuance of the instructions of the FAO Governing Bodies, the draft Code was formulated in such a way as to be consistent with the 1982 United Nations Convention on the Law of the Sea, taking into account the 1992 Declaration of Cancûn, the 1992 Rio Declaration and the provisions of Agenda 21 of UNCED, the conclusions and recommendations of the 1992 FAO Technical Consultation on High Seas Fishing, the Strategy endorsed by the 1984 FAO World Conference on Fisheries Management and Development, and other relevant instruments including the outcome of the then ongoing United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks which, in August 1995, adopted an Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Concerning Straddling Fish Stocks and Highly Migratory Fish Stocks.

9. The FAO Conference, at its Twenty-seventh Session in November 1993, adopted the Agreement to Promote Compliance with International Conservationa and Management Measures by Fishing Vessels on the High Seas and recommended that the General Principles of the Code of Conduct for Responsaible Fisheries be prepared on a "fast track" in order to orientate formulation of thematic articles. Accordingly, a draft text of the General Principles was reviewed by an informal Working Group of Government-nominated experts, which met in Rome in February 1994. A revised draft was widely circulated to all FAO Members and Associate Members as well as intergovernmental and non-governmental organizations. Comments received on the second version of the General Principles were incorporated in the draft Code together with proposals for an alternative text. This document was also the subject of informal consultation with non-governmental organizations on the occasion of the Fourth Session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, held in August 1994 in New York.

10. In order to facilitate consideration of the full text of the draft Code, the Director-General proposed to the Council at its Hundred and Sixth Session in June 1994, that a Technical Consultation on the Code of Conduct for Responsible Fishing be organized, open to all FAO Members, interested non-members, intergovernmental and non-govermental organizations, in order to provide an opportunity for the widest involvement of all concerned parties at an early stage of its elaboration.

11. This Technical Consultation took place in Rome from 26 September to 5 October 1994 and a draft for the entire Code and a first draft of technical guidelines to support most of the Thematic Articles of the Code were presented. Following a thorough review of all the Articles of the complete draft Code of Conduct, an Alternative Secretariat Draft was then prepared on the basis of comments made during the discussions in plenary and specific drafting changes submitted in writing during the Consultation.

12. The Consultation was able to review also in detail an alternative draft for three of the six Thematic Articles of the Code, i.e., Article 9 "Integration of Fisheries into Coastal Area Management", Article 6 "Fisheries Management", Article 7 "Fishing Operations", except for those principles which were likely to be affected by the outcome of the ongoing UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. A short Administrative Report was prepared and presented to the FAO Council and to COFI.

13. The Technical Consultation proposed to the Council at its Hundred and Seventh Session, 15-24 November 1994, that the final wording of those principles dealing mainly with high seas issues be left in abeyance pending the outcome of the UN Conference. The Council generally endorsed the proposed procedure, noting that following discussions at the next session of COFI, a final draft of the Code would be submitted to the FAO Council in June 1995 which would then decide upon the necessity for a Technical Committee to meet in parallel to that Session of the Council in order to elaborate further the detailed provisions of the Code if required.

14. Based upon the substantial comments and detailed suggestions received at the Technical Consultation, the Secretariat elaborated a revised draft of the Code of Conduct for Responsible Fisheries, which was submitted to the Twenty-first Session of the Committee on Fisheries, held from 10 to 15 March 1995.

15. The Committee on Fisheries was also informed that the UN Conference was expected to conclude its work in August 1995. It was proposed that principles left in abeyance in the draft text of the Code could then be reconciled with the language agreed upon at the UN Conference in accordance with a mechanism to be decided upon by the Committee and the Council, before submission of the complete Code for its adoptiton at the Twenty-eighth Session of the FAO Conference in October 1995.

16. The Committee was informed of the various steps the Secretariat had undertaken in preparing the draft Code of Conduct. The Committee established an open-ended Working Group in order to review the draft text of the Code. The Working Group, which met from 10 to 14 March 1995, undertook a detailed revision of the draft Code in continuation of the work carried out by the Technical Consultation. It completed and approved the text of Articles 8 to 11. In view of the time constraints, the Working Group provided directives to the Secretariat to redraft Articles 1 to 5. It was also recommended that the elements of research and cooperation as well as aquaculture be included in Article 5, General Principles, to reflect issues developed in the Thematic Articles of the Code.

17. The Committee supported the proposal endorsed by the Hundred and Seventh Session of the Council on mechanisms to finalize the Code. The final wording of those principles dealing mainly with issues concerning straddling fish stocks and highly migratory fish stocks, which formed only a small part of the Code, should be re-examined in the light of the outcome of the UN Conference. The Group also recommended that once agreement was reached on the substance, it would be necessary to harmonize legal, technical and idiomatic aspects of the Code, in order to facilitate its final approval.

18. The Report of the open-ended Working Group was presented to a Ministerial Meeting on Fisheries, held on 14 and 15 March 1995, in conjunction with the COFI Session. The Rome Consensus on World Fisheries emanating from this meeting urged that "Governments and international organizations take prompt action to complete the International Code of Conduct for Responsible Fisheries with a view to submitting the final text to the FAO Conference in October 1995".

19. The Hundred and Eighth Session of the Council was presented with a revised version of the Code of Conduct. The Council established an open-ended Technical Committee, which held its First Session from 5 to 9 June 1995, with a broad regional representation of members and observers. A number of intergovernmental and non-governmental organizations also participated.

20. The Council was informed by the Technical Committee that it had undertaken a thorough review of Articles 1 to 5 including the Introduction. It had also examined, amended and approved Aticles 8 to 11. The Council was also informed that the Committee had started the revision of Article 6.

21. The Council approved the work carried out by the Technical Committee and endorsed its recommendation for a Second Session to be held from 25 to 29 September 1995 to complete the revision of the Code once the Secretariat had harmonized the text linguistically and juridically, taking into account the outcome of the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

22. A revised version of the Code as approved by the Open-ended Technical Committee at its First Session (5-9 June 1995) and endorsed by the One Hundred and Eighth Session of the Council was issued, both as a Conference

document (C 95/20) and as a working paper for the Second Session of the Technical Committee. Elements pending agreement were clearly identified.

23. In order to facilitate the finalization of the entire Code, the Secretariat prepared the document "Secretariat Proposals for Article 6, Fisheries Management, and Article 7, Fishing Operations, of the Code of Conduct for Responsible Fisheries", taking into account the Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted by the UN Conference in August 1995. The Secretariat also completed proposals for the harmonization of the text on legal and linguistic aspects and made this available to the Committee in three languages for the session (English, French and Spanish).

24. A Second Session of the Open-ended Technical Committee of the Council met from 25 to 29 September 1995, with a wide representation of regions and interested organizations. The Committee, working in a full spirit of collaboration, successfully concluded its mandate, finalizing and endorsing all Articles and the Code as a whole. The Technical Committee agreed that the negotiations of the text of the Code were finalized. An Open-ended Informal Group on Language Harmonization held an additional session and, together with the Secretariat, completed the harmonization on the basis of the text as adopted at the closing session. The Technical Committee instructed the Secretariat to already submit the finalized version as a revised Conference document to the Hundred and Ninth Session of the Council and to the Twenty-eighth Session of the Conference for its adoption. The Council endorsed the Code of Conduct as finalized by the Technical Committee. The Secretariat was requested to prepare the required draft resolution for the Conference, including also a call on countries to ratify, as a matter of urgency, the Compliance Agreement adopted at the last session of the Conference. The Twenty-eighth Session of the Conference adopted on 31 October 1995, by consensus, the Code of Conduct for Responsible Fisheries and the respective Resolution.

Kyoto Declaration and Plan of Action on the Sustainable Contribution of Fisheries to Food Security, Kyoto, 1995

Done at Kyoto 9 December 1995

Primary source citation: Copy of text provided by the U.S. Department of Commerce

We, the 95 States[1] which met in Kyoto from 4 to 9 December 1995 on the occasion of the International Conference on the Sustainable Contribution of Fisheries to Food Security,

Appreciating the initiative taken by the Government of Japan to host the Conference and the technical assistance provided by the Food and Agriculture Organization of the United Nations (FAO);

Recalling that this initiative was welcomed at the 27th Session of the FAO Conference held in November 1993;

Also recalling the Strategy for Fisheries Management and Development established by the FAO World Fisheries Conference in 1984;

Also recalling the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS), the Declaration of Cancun, the Rio Declaration and Agenda 21 of the United Nations Conference on Environment and Development (UNCED), the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks[2] and the FAO Code of Conduct for Responsible Fisheries, including the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas;

Also recalling the decision on conservation and sustainable use of marine and coastal biological diversity adopted in November 1995 by the Conference of the Parties to the Convention on Biological Diversity;

Also recalling the Rome Consensus on World Fisheries adopted at the FAO Ministerial Conference on Fisheries in March 1995;

Noting a continuously growing world population and the need to secure enough food for the people in present and future generations, and the significant contribution of fisheries to income, wealth and food security for all people, and its critical importance in some low-income food-deficit countries (LIFDCs);

Recognizing the responsibility of the present generation regarding the needs of future generations;

Also recognizing the role of living aquatic resources as an important natural renewable source of food and the traditional and essential role played by fisheries in providing high quality protein required for human use;

Deeply concerned that 800 million people suffer from chronic malnutrition;

Mindful that, unless appropriate action is taken very soon, the combination, at the global level, of population increase and economic growth, in conjunction with continued over-fishing, excess fishing capacity and degra-

[1] In this Declaration and Plan of Action the reference to States includes the European Community in matters within its competence.

[2] Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. A/CONF.164/37, 8 September 1995.

dation of the aquatic environment, will place enormous strains upon the fishery sector's capability to sustain its necessary contribution to food security;

Affirming that effective and integrated fisheries management and conservation policies will result in long-term and significant gains in food supply, income and wealth, as well as in economic growth;

Also affirming that achieving an optimum long-term contribution of fisheries to economic and social well-being - a concept which includes nutritional and environmental values, as well as poverty alleviation - will contribute to achieving food security;

Mindful that initiatives which respect the concept of sustainable use of resources will promote the objective of optimizing the availability of aquatic products, and thus support efforts to achieve food security;

Recognizing the importance of inland fisheries and fresh water aquaculture, in particular for land-locked countries, in many of which fresh water fish is important for food security;

Mindful that environmentally sound and sustainable stock enhancement, combined with integrated management of fresh water catchment areas, could significantly increase supplies of fresh water fish, particularly in LIFDCs;

Aware that the world's aquaculture, while showing steady and rapid growth in production, needs appropriate institutional and legal frameworks to fulfill its potential in ways which are compatible with sustainable development;

Noting that responsible post-harvest use of fish and fishery products is necessary for the sustainable contribution of fisheries to food security;

Recognizing that trade in fish and fishery products is of great importance, in particular for a number of developing countries, and should be conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement;

Also recognizing that many developing countries, and in particular LIFDCs and small island developing States, face major challenges in ensuring a sustainable contribution from subsistence, artisanal and commercial fisheries to their food security, and recognizing that international cooperation and support will be important in ensuring capacity building, information exchange and the provision of technical and financial assistance;

DECLARE that we should, without prejudice to the rights and obligations of States under international law:

1. Recognize and appreciate the significant role which marine fisheries, inland fisheries and aquaculture play in providing food security for the world, both through food supplies and through economic and social well-being;

2. Recognize and appreciate the important economic and social role of subsistence, artisanal and commercial fishers and other fishers throughout the world, and seek to provide an environment in which they can make an optimum contribution to economic and social welfare;

3. Recognize that FAO projects a potential substantial shortfall by 2010 of the supply of fish and fishery products to meet demands from an increased human population, which in turn will adversely affect world food security;

4. Recognize that the projected shortfall of supply of fish and fishery products by 2010 can substantially be reduced and the marine and inland waters maintained as a sustainable source of renewable food resources, if a combination of measures, set forth below, are taken;

5. Take steps for effective application of the FAO Code of Conduct for Responsible Fisheries, and consider becoming parties to the United Nations Convention on the Law of the Sea, the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, and enact, correspondingly, appropriate domestic legislation and regulations in a timely manner;

6. Call for an increase in the respect and understanding of social, economic and cultural differences among States and regions in the use of living aquatic resources, especially cultural diversity in dietary habits, consistent with management objectives;

7. Undertake in-depth studies to assess the social, economic and cultural importance of fisheries and fishery products;

8. Promote and strengthen scientific research as the fundamental basis for sustainable development of fisheries and aquaculture activities to ensure food security, as well as provide scientific and technical cooperation and support for those countries with lesser research capabilities;

9. Base policies, strategies and resource management and utilization for sustainable development of the fisheries sector on the following: (i) maintenance of ecological systems; (ii) use of the best scientific evidence available; (iii) improvement in economic and social well-being; and (iv) inter- and intra-generational equity;

10. Apply the precautionary approach as referred to in the FAO Code of Conduct for Responsible Fisheries and the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks;

11. Assess the stock productivity in the waters under national jurisdiction, both inland and marine, adjust the fishing capacity in these waters to a level commensurate with long-term stock productivity and take appropriate measures as soon as possible to restore overexploited stocks to sustainable levels; and cooperate in accordance with international law to take similar measures regarding stocks occurring in the high seas;

12. Conserve and sustainably use biological diversity and its components in the aquatic environment and, in particular, prevent practices leading to irreversible changes, such as extinction of genes and species, genetic erosion and/or large-scale destruction of habitats;

13. Study the effectiveness of multispecies management;

14. When and where appropriate, consider harvesting at multiple trophic levels in a manner consistent with sustainable development of these resources;

15. Promote fisheries through research and development aiming at: (i) optimum use of unexploited or underexploited resources ; (ii) identification of new, harvestable, aquatic resources; (iii) reduction of discard mortality; and (iv) development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

16. Increase the available supply of fish and fishery products for human consumption, nationally and internationally, through: (i) making optimum use of harvests and reducing post-harvest losses; (ii) developing, improving and sharing appropriate storage, processing and distribution technology; and (iii) developing and promoting effective systems ensuring the safety of food of aquatic origin, including harmonization of international regulations;

17. Support enhancement of fisheries in coastal marine and inland waters, when and where appropriate, by: (i) assisting in stocking of resources and restocking of depleted resources through providing suitable organisms; (ii) assisting fishers to organize themselves ; (iii) promoting the use of integrated community based and/or co-management schemes; and (iv) subject to national priorities, establishing access or user rights in waters exploited under open access regimes;

18. Promote the use of sustainable and environmentally sound aquaculture and ranching in coastal marine and inland waters through, *inter alia*: (i) establishment of appropriate institutional and legal frameworks; (ii) coordination of the use of lands and waters with other activities; (iii) use of the best and most appropriate genetic material in conformity with the conservation and sustainable use of the environment and conservation of biological diversity; and (iv) application of social and environmental impact assessments;

19. Study the means for responsible post-harvest use of fish and fishery products, compatible with the policies for the sustainable development of fisheries and aquaculture;

20. Ensure that trade in fish and fishery products promotes food security, does not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish and fishery prod-

ucts are critical to their health and well-being, does not undermine applicable global, regional and subregional conservation and management measures and is conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement;

21. Enhance public awareness of the nutritional and health values of fish and fishery products;

22. Provide, either directly or through regional, subregional or international organizations, technical and financial assistance to developing countries, in particular LIFDCs and small island developing States, in order to assist them to realize the sustainable contribution of fisheries to food security and social and economic development;

AND HAVE AGREED that a set of immediate actions should be taken, without prejudice to the rights and obligations of States under international law, either directly or in cooperation with other States, or through the Food and Agriculture Organization of the United Nations (FAO) in cooperation with other appropriate intergovernmental organizations and/or regional fishery management organizations or arrangements. These immediate actions are:

1. To assess and monitor the present and future levels of global, regional and national production, supply and demand of fish and fishery products and their effects on food security, employment, consumption, income, trade and sustainability of production.

2. To enhance subregional and regional cooperation and establish, where it is considered appropriate, subregional and regional fishery conservation and management organizations or arrangements for straddling fish stocks and highly migratory fish stocks; and cooperate to strengthen, where necessary, existing subregional and regional fishery conservation and management organizations and arrangements in order to carry out their assigned tasks.

3. To conduct, within their competences and, where appropriate, in cooperation with regional and other intergovernmental organizations, integrated assessments of fisheries in order to evaluate opportunities and strengthen the scientific basis for multispecies and ecosystem management.

4. To identify and exchange information on potential mechanisms to reduce excess fishing capacity and implement action on programs to reduce excess capacity, where and when appropriate, as soon as possible.

5. To develop, promote and facilitate the exchange of information on the use of efficient and standardized methodologies for the study of social, cultural and economic characteristics of fishing and associated activities; and, in particular, attempt to develop methods designed to permit verifiable indicators of the importance of such characteristics and their interaction and compatibility with management objectives.

6. To promote allocation of human and financial resources for an international program to investigate the effectiveness of multispecies management of commercial fishery resources.

7. To increase efforts to estimate the quantity of fish, marine mammals, sea birds, sea turtles and other sea-life which are incidentally caught and discarded in fishing operations; assess the effect on the populations or species; take action to minimize waste and discards through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques; and exchange information on methods and technologies to minimize waste and discards.

8. To promote the exchange of information amongst research institutes and other relevant entities aiming to: (i) increase opportunities for the sustainable use of unexploited or underexploited species as human food; and (ii) promote and support research activities in order to ensure improvement in scientific knowledge of existing fishery resources.

9. To strengthen coordination of national and international research programs aiming to stimulate environmentally sound aquaculture and stocking, giving emphasis to the development of international guidelines for the development and management of activities in particular on: (i) the impacts on the environment and biodiversity; (ii) the application of biotechnology; and (iii) the health of cultured stocks.

10. To provide and coordinate technical and financial assistance programs for developing countries, in particular low-income food-deficit countries (LIFDCs) and small island developing States, and encourage cooper-

ation between these countries, in order to achieve the contribution of fisheries to food security through, *inter alia*: (i) a rapid transfer of technology and know-how in enhancement in inland and marine waters; (ii) an upgrade and increase of the capabilities needed to minimize post-harvest losses; and (iii) ensuring improved control of fishing activities within areas under national jurisdiction.

AND REQUEST the Government of Japan to convey this Declaration and Plan of Action to the Secretary-General of the United Nations, the Director-General of the Food and Agriculture Organization of the United Nations, the Chairman of the United Nations Commission on Sustainable Development, the 1996 FAO World Food Summit and relevant international organizations for their consideration and endorsement.

9 December 1995

STATEMENT MADE BY ARGENTINA, AUSTRALIA, NEW ZEALAND AND THE UNITED STATES IN RELATION TO THE KYOTO DECLARATION AND PLAN OF ACTION

Mr Chairman,

The Kyoto Declaration and Plan of Action which was adopted in the Plenary by Consensus represents an excellent outcome.

Argentina, Australia, New Zealand, and the United States wish to state our understanding of a solution we reached.

As is stated in the chapeaux, the operative paragraphs of the Kyoto Declaration and Plan of Action are without prejudice to our rights and obligations in international law.

The above countries explicitly stated in the Drafting Committee that we accepted this solution on the basis that it was not intended that the provisions of the Kyoto Declaration and Plan of Action would affect the competency of, or change the current status in, other international organisations, including the International Whaling Commission.

United Nations General Assembly Resolution 50/24 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 1995

Done at New York 5 December 1995

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/50/L.35 and Add.1)]

50/24. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The General Assembly,

Recalling its resolutions 47/192 of 22 December 1992, 48/194 of 21 December 1993 and 49/121 of 19 December 1994, concerning the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Taking note of resolutions I and II adopted by the Conference, 1/

Recognizing the importance of the regular consideration and review of developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

Taking note also of the report of the Secretary-General of 12 October 1995 on the work of the Conference, 2/

1. Expresses its appreciation to the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks for discharging its mandate under resolution 47/192 with the adoption of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; 3/

2. Welcomes the opening for signature of the Agreement on 4 December 1995;

3. Emphasizes the importance of the early entry into force and effective implementation of the Agreement;

4. Calls upon all States and the other entities referred to in article 1, paragraph 2 (b), of the Agreement that have not done so to sign and ratify or accede to it and to consider applying it provisionally;

5. Requests the Secretary-General to report to the General Assembly on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks at its fifty-first session and biennially thereafter, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations;

6. Also requests the Secretary-General to ensure that reporting on all major fisheries-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fisheries organizations and arrangements, to cooperate with the Secretary-General to that end;

7. Decides to include in the provisional agenda of its fifty-first session, under the item entitled "Law of the sea", a sub-item entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

81st plenary meeting
5 December 1995

1/ A/50/550, annex II; see also A/CONF.164/38, annex.
2/ A/50/550.
3/ Ibid., annex I; see also A/CONF.164/37.

United Nations General Assembly Resolution 50/25 on Large-scale Pelagic Drift-net Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas; Unauthorized Fishing in Zones of National Jurisdiction and its Impact on the Living Marine Resources of the World's Oceans and Seas; and Fisheries By-catch and Discards and their Impact on the Sustainable Use of the World's Living Marine Resources, New York, 1995

Done at New York 5 December 1995

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/50/L.36 and Add.1)]

50/25. Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas; unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas; and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources

The General Assembly,

Reaffirming its resolutions 44/225 of 22 December 1989, 45/197 of 21 December 1990 and 46/215 of 20 December 1991, as well as its decisions 47/443 of 22 December 1992, 48/445 of 21 December 1993 and 49/436 of 19 December 1994, on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas,

Recalling its resolution 49/116 of 19 December 1994 on unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas,

Recalling also its resolution 49/118 of 19 December 1994 on fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,

Recognizing the efforts that international organizations and members of the international community have made to reduce by-catch and discards in fishing operations,

Conscious of the need to promote and facilitate international cooperation, especially at the regional and subregional levels, in order to ensure the sustainable development and use of the living marine resources of the world's oceans and seas, consistent with the present resolution,

Noting that the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1/ adopted by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, provides in its general principles that States shall minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques, and further provides that States shall take measures, including the establishment of regulations, to ensure that vessels flying their flags do not conduct unauthorized fishing within areas under the national jurisdiction of other States,

Noting also that the Food and Agriculture Organization of the United Nations has adopted a Code of Conduct for Responsible Fisheries, which sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Expressing deep concern at the detrimental impact of unauthorized fishing in areas under national jurisdiction, where the overwhelming proportion of the global fish catch is harvested, on the sustainable development of the world's fishery resources and on the food security and economies of many States, particularly developing States,

Reaffirming the rights and duties of coastal States to ensure proper conservation and management measures with respect to the living resources in areas under their national jurisdiction, in accordance with international law as reflected in the United Nations Convention on the Law of the Sea, 2/

Taking note of the reports of the Secretary-General on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, 3/ and unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, 4/

Taking note also of the report of the Food and Agriculture Organization of the United Nations on fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources, 5/

Acknowledging with appreciation the measures taken and the progress made by members of the international community, international organizations and regional economic integration organizations to implement and support the objectives of resolution 46/215,

Expressing deep concern that there are continuing reports of activities inconsistent with the terms of resolution 46/215 and unauthorized fishing inconsistent with the terms of resolution 49/116,

1. Reaffirms the importance it attaches to compliance with its resolution 46/215, in particular to those provisions of the resolution calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas;

1/ A/CONF.164/37; see also A/50/550, annex I.

2/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

3/ A/50/553.

4/ A/50/549.

5/ A/50/552, annex.

2. Urges all authorities of members of the international community to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution;

3. Calls upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flags fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned; such authorized fishing operations should be carried out in accordance with the conditions set out in the authorization;

4. Urges States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries;

5. Calls upon development assistance organizations to make it a high priority to support, including through financial and/or technical assistance, efforts of developing coastal States, in particular the least developed countries and the small island developing States, to improve the monitoring and control of fishing activities and the enforcement of fishing regulations;

6. Requests the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations, and relevant non-governmental organizations, and invites them to provide the Secretary-General with information relevant to the implementation of the present resolution;

7. Also requests the Secretary-General to ensure that reporting on all major fisheries-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fisheries organizations and arrangements, to cooperate with the Secretary-General to that end;

8. Further requests the Secretary-General to submit to the General Assembly at its fifty-first session a report on further developments relating to the implementation of resolutions 46/215, 49/116 and 49/118, taking into account the information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements and other relevant intergovernmental and non-governmental organizations;

9. Decides to include in the provisional agenda of its fifty-first session, under the item entitled "Law of the sea", a sub-item entitled "Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas; unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas; and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources".

81st plenary meeting
5 December 1995

United Nations General Assembly Resolution 51/35 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 1996

Done at New York 9 December 1996

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/51/L.28 and Add.1)]

51/35. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The General Assembly,

Recalling its resolutions 47/192 of 22 December 1992, concerning the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, and 50/24 of 5 December 1995, concerning the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, [1]

Recalling also resolutions I and II adopted by the Conference,[2]

Noting the opening for signature of the Agreement on 4 December 1995,

Recognizing the importance of the Agreement for the conservation and management of straddling fish stocks and highly migratory fish stocks and the need for the regular consideration and review of developments relating thereto,

Recognizing also the importance of artisanal and subsistence fishers,

Noting with appreciation the information provided by States, relevant specialized agencies, international organizations, intergovernmental bodies and non-governmental organizations in accordance with resolution 50/24,

Taking note of the report of the Secretary-General,[3]

1. Recognizes the significance of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[1] as an important contribution to ensuring the conservation and management of straddling fish stocks and highly migratory fish stocks;

2. Emphasizes the importance of the early entry into force and effective implementation of the Agreement;

3. Calls upon all States and other entities referred to in article 1, paragraph 2 (b), of the Agreement that have not done so to ratify or accede to it and to consider applying it provisionally;

4. Takes note with concern that many commercially important straddling fish stocks and highly migratory fish stocks have been subject to heavy and little-regulated fishing efforts and that some stocks continue to be overfished;

5. Welcomes the fact that a growing number of States and other entities, as well as regional and subregional fishery management organizations and arrangements, have adopted legislation, established regulations or taken other measures to implement the provisions in the Agreement, and urges them to enforce those measures fully;

6. Calls upon States and other entities and regional and subregional fishery management organizations and arrangements that have not done so to consider taking measures to implement the provisions of the Agreement;

7. Urges States, relevant specialized agencies, international organizations, intergovernmental bodies and non-governmental organizations that have not yet done so to provide information to the Secretary-General to ensure as comprehensive a report as possible;

8. Requests the Secretary-General to report to the General Assembly at its fifty-second session and biennially thereafter on further developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, including the status and implementation of the Agreement, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations;

9. Also requests the Secretary-General to ensure that reporting on all major fishery-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized, and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fishery organizations and arrangements, to cooperate with the Secretary-General to that end;

10. Decides to include in the provisional agenda of its fifty-second session, under an item entitled "Oceans and law of the sea", the sub-item entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

77th plenary meeting
9 December 1996

[1] A/CONF.164/37; see also A/50/550, annex I.
[2] A/CONF.164/38, annex; see also A/50/550, annex II.
[3] A/51/383

United Nations General Assembly Resolution 51/36 on Large-Scale Pelagic Drift-Net Fishing, Unauthorized Fishing in Zones of National Jurisdiction, and Fisheries By-Catch and Discards, New York, 1996

Done at New York 9 December 1996

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/51/L.29 and Add.1)]

51/36. Large-scale pelagic drift-net fishing; unauthorized fishing in zones of national jurisdiction; and fisheries by-catch and discards

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994 as well as other relevant resolutions,

Reaffirming also its resolution 50/25 of 5 December 1995 on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,

Conscious of the need to promote and facilitate international cooperation, especially at the regional and sub-regional levels, in order to ensure the sustainable development and use of the living marine resources of the world's oceans and seas, consistent with the present resolution,

Mindful that the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks provides in its general principles that States shall minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques, and further provides that States shall take measures, including the establishment of regulations, to ensure that vessels flying their flags do not conduct unauthorized fishing within areas under the national jurisdiction of other States,

Noting that the Code of Conduct for Responsible Fisheries sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the

high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Expressing deep concern at the detrimental impact of unauthorized fishing in areas under national jurisdiction, where the overwhelming proportion of the global fish catch is harvested, on the sustainable development of the world's fishery resources and on the food security and economies of many States, particularly developing States,

Reaffirming once again the rights and duties of coastal States to ensure proper conservation and management measures with respect to the living resources in areas under their national jurisdiction, in accordance with international law as reflected in the United Nations Convention on the Law of the Sea,

Taking note of the report of the Secretary-General on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,

Acknowledging with appreciation the measures taken and the progress made by members of the international community, international organizations and regional economic integration organizations to implement and support the objectives of resolution 46/215,

Recognizing the efforts that international organizations and members of the international community have made to reduce by-catch and discards in fishing operations,

Once again expressing deep concern that there are continuing reports of activities inconsistent with the terms of resolution 46/215 and unauthorized fishing inconsistent with the terms of resolution 49/116,

1. Reaffirms the importance it attaches to compliance with its resolution 46/215, in particular to those provisions of the resolution calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas;

2. Notes that a growing number of States and other entities as well as relevant regional and subregional fisheries management organizations and arrangements have adopted legislation, established regulations or applied other measures to ensure compliance with resolutions 46/215 and 49/116, and urges them to enforce fully such measures;

3. Urges all authorities of members of the international community that have not done so to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution;

4. Calls upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea[2] and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flags fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned; such authorized fishing operations should be carried out in accordance with the conditions set out in the authorization;

5. Urges States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, including through assistance to developing countries, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries;

6. Reiterates its call on development assistance organizations to make it a high priority to support, including through financial and/or technical assistance, efforts of developing coastal States, in particular the least developed countries and the small island developing States, to improve the monitoring and control of fishing activ-

A/CONF.164/37; see also A/50/550, annex I.

Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), A/CONF.62/122.

A/51/404.

ities and the enforcement of fishing regulations, including through financial and technical support for regional and subregional meetings for this purpose;

7. Requests the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations, and relevant non-governmental organizations, and invites them to provide the Secretary-General with information relevant to the implementation of the present resolution;

8. Also requests the Secretary-General to ensure that reporting on all major fisheries-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fisheries organizations and arrangements, to cooperate with the Secretary-General to that end;

9. Further requests the Secretary-General to submit to the General Assembly at its fifty-second session and biennially thereafter a report on further developments relating to the implementation of resolutions 46/215, 49/116 and 49/118, taking into account the information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements and other relevant intergovernmental and non-governmental organizations;

10. Decides to include in the provisional agenda of its fifty-second session, under an item entitled "Oceans and law of the sea", a sub-item entitled "Large-scale pelagic drift-net fishing; unauthorized fishing in zones of national jurisdiction; and fisheries by-catch and discards".

77th plenary meeting
9 December 1996

United Nations General Assembly Resolution 52/28 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 1997

Done at New York 26 November 1997

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[*without reference to a Main Committee (A/52/L.29 and Add.1)*]

52/28. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The General Assembly,

Recalling its resolution 47/192 of 22 December 1992, concerning the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, and resolutions 50/24 of 5 December 1995 and 51/35 of 9 December 1996, concerning the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,[1]

Recalling also resolutions I and II adopted by the Conference,[2]

Recognizing the importance of the Agreement for the conservation and management of straddling fish stocks and highly migratory fish stocks and the need for the regular consideration and review of developments relating thereto,

Recognizing also the importance of artisanal and subsistence fishers,

[1] A/CONF.164/37; see also A/50/550, annex I.

[2] A/CONF.164/38, annex; see also A/50/550, annex II.

Noting with appreciation the information provided by States, relevant specialized agencies, international organizations, intergovernmental bodies and non-governmental organizations in accordance with resolution 51/35,

Taking note of the report of the Secretary-General,[3]

1. *Recognizes* the significance of the Agreement for the Implementation of the Provisions the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[1] as an important contribution to ensuring the conservation and management of straddling fish stocks and highly migratory fish stocks;

2. *Emphasizes* the importance of the early entry into force and effective implementation of the Agreement;

3. *Calls upon* all States and other entities referred to in article 1, paragraph 2 (b), of the Agreement that have not done so to ratify or accede to it and to consider applying it provisionally;

4. *Also calls upon* States to ensure that any declarations or statements that they have made or make when signing, ratifying or acceding to the Agreement are consistent with articles 42 and 43 of the Agreement;

5. *Takes note with concern* that many commercially important straddling fish stocks and highly migratory fish stocks have been subject to heavy and little-regulated fishing efforts and that some stocks continue to be overfished;

6. *Welcomes* the fact that a growing number of States and other entities, as well as regional and subregional fishery management organizations and arrangements, have adopted legislation, established regulations or taken other measures to implement the provisions in the Agreement, and urges them to enforce those measures fully,

7. *Calls upon* States and other entities and regional and subregional fishery management organizations and arrangements that have not done so to consider taking measures to implement the provisions of the Agreement;

8. *Urges* States, relevant specialized agencies, international organizations, intergovernmental bodies and non-governmental organizations that have not yet done so to provide information to the Secretary-General to ensure as comprehensive a report as possible;

9. *Requests* the Secretary-General to report to the General Assembly at its fifty-fourth session and biennially thereafter on further developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, including the status and implementation of the Agreement, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations;

10. *Also requests* the Secretary-General to ensure that reporting on all major fishery-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized, and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fishery organizations and arrangements, to cooperate with the Secretary-General to that end;

11. *Decides* to include in the provisional agenda of its fifty-fourth session, under an item entitled "Oceans and law of the sea", the sub-item entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

57th plenary meeting
26 November 1997

[3] A/52/555.

United Nations General Assembly Resolution 52/29 on Large-scale Pelagic Drift-net Fishing, Unauthorized Fishing in Zones of National Jurisdiction and on the High Seas, Fisheries By-catch and Discards, and Other Developments, New York, 1997

Done at New York 24 November 1997

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[*without reference to a Main Committee (A/52/L.30 and Add.1)*]

52/29. Large-scale pelagic drift-net fishing; unauthorized fishing in zones of national jurisdiction and on the high seas; fisheries by-catch and discards; and other developments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994 as well as other relevant resolutions,

Reaffirming also its resolution 51/36 of 9 December 1996 on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,

Conscious of the need to promote and facilitate international cooperation, especially at the regional and subregional levels, in order to ensure the sustainable development and use of the living marine resources of the world's oceans and seas, consistent with the present resolution,

Mindful that the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[1] provides in its general principles that States shall minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques, and further provides that States shall take measures, including the establishment of regulations, to ensure that vessels flying their flags do not conduct unauthorized fishing within areas under the national jurisdiction of other States,

[1] A/CONF.164/37; see also A/50/550, annex I.

Recalling the provisions of article 5 of the Agreement, which sets out the general principles to which States are committed in order to conserve and manage such stocks,

Noting that the Code of Conduct for Responsible Fisheries, adopted by the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995, sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Expressing deep concern at the detrimental impact of unauthorized fishing in areas under national jurisdiction, where the overwhelming proportion of the global fish catch is harvested, on the sustainable development of the world's fishery resources and on the food security and economies of many States, particularly developing States,

Reaffirming once again the rights and duties of coastal States to ensure proper conservation and management measures with respect to the living resources in areas under their national jurisdiction, in accordance with international law as reflected in the United Nations Convention on the Law of the Sea,

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing vessels on the high seas,

Recognizing the importance of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations in November 1993, to the conservation and management of fisheries resources on the high seas,

Taking note of the report of the Secretary-General on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,

Taking note also of the initiatives undertaken in the Food and Agriculture Organization of the United Nations relating to the incidental catch of seabirds, the conservation and management of sharks and the management of fishing capacity,

Acknowledging with appreciation the measures taken and the progress made by members of the international community, international organizations and regional economic integration organizations to implement and support the objectives of resolution 46/215,

Recognizing the efforts that international organizations and members of the international community have made to reduce by-catch and discards in fishing operations,

Once again expressing deep concern that there are continuing reports of activities inconsistent with the terms of resolution 46/215 and unauthorized fishing inconsistent with the terms of resolution 49/116,

1. *Reaffirms* the importance it attaches to compliance with its resolution 46/215, in particular to those provisions of the resolution calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas;

2. *Notes* that a growing number of States and other entities as well as relevant regional and subregional fisheries management organizations and arrangements have adopted legislation, established regulations or applied other measures to ensure compliance with resolutions 46/215, 49/116 and 51/36, and urges them to enforce fully such measures;

3. *Urges* all authorities of members of the international community that have not done so to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution;

4. *Calls upon* States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea[2] and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flags fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned, and that such authorized fishing operations should be carried out in accordance with the conditions set out in the authorization;

5. *Notes* the obligations of States outlined in Parts IV and V of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[1] regarding non-members and non-participants and duties of flag States respectively;

6. *Calls upon* States and other entities referred to in article 10, paragraph 1, of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas that have not done so to accept the Agreement;

7. *Notes* that no party to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to do so by the appropriate authority or authorities of that party, and that a fishing vessel so authorized shall fish in accordance with the conditions set out in the authorization;

8. *Welcomes* initiatives undertaken in the Food and Agricultural Organization of the United Nations to organize an expert consultation to develop and propose guidelines leading to a plan of action aiming at a reduction in the incidental catch of sea birds, to organize an expert consultation to develop and propose guidelines leading to a plan of action for the conservation and effective management of shark populations and to hold a technical consultation on the management of fishing capacity to draft guidelines for the control and management of fishing capacities;

9. *Urges* States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, including through assistance to developing countries, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries;

10. *Reiterates its call* on development assistance organizations to make it a high priority to support, including through financial and/or technical assistance, efforts of developing coastal States, in particular the least developed countries and the small island developing States, to improve the monitoring and control of fishing activities and the enforcement of fishing regulations, including through financial and technical support for regional and subregional meetings for this purpose;

11. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and invites them to provide the Secretary-General with information relevant to the implementation of the present resolution;

12. *Also requests* the Secretary-General to ensure that reporting on all major fisheries-related activities and instruments is effectively coordinated and duplication of activities and reporting minimized and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fisheries organizations and arrangements, to cooperate with the Secretary-General to that end;

13. *Further requests* the Secretary-General to submit to the General Assembly at its fifty-third session

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[2] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

[3] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions Adopted by the Conference*, resolution 1, annex II.

[4] A/52/555.

and biennially thereafter a report on further developments relating to the implementation of resolutions 46/215, 49/116, 49/118, the status and implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and efforts undertaken in the Food and Agriculture Organization of the United Nations referred to in paragraph 8 of the present resolution, taking into account the information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements and other relevant intergovernmental and non-governmental organizations;

14. *Decides* to include in the provisional agenda of its fifty-third session, under the item entitled "Oceans and law of the sea", a sub-item entitled "Large-scale pelagic drift-net fishing; unauthorized fishing in zones of national jurisdiction and on the high seas; fisheries by-catch and discards; and other developments".

57th plenary meeting
26 November 1997

United Nations General Assembly Resolution 53/33 on Large-scale Pelagic Drift-net Fishing, Unauthorized Fishing in Zones of National Jurisdiction and on the High Seas, Fisheries By-catch and Discards, and Other Developments, New York, 1998

Done at New York 24 November 1998

Primary source citation: Copy of text provided by the United Nations

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/53/L.45 and Add.1)]

53/33. Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994, 51/36 of 9 December 1996 and 52/29 of 26 November 1997, as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments,

Taking note with appreciation of the report of the Secretary-General,[1]

Emphasizing the useful role that report plays in bringing together information relating to the sustainable development of the world's marine living resources, provided by States, relevant intergovernmental organizations, regional and subregional fisheries organizations, and non-governmental organizations,

Noting with satisfaction that, while significant work remains, interested parties have made real progress towards sustainable fisheries management,

Welcoming the progress in organizing new regional organizations and arrangements in several heretofore unmanaged fisheries,

Noting that the secretariat of the Food and Agriculture Organization of the United Nations stated that 60 to 70 per cent of world fisheries are either fully exploited or overfished, and encouraging, in this regard, the current intergovernmental negotiating process at that organization to address the issue of fishing overcapacity,

[1] A/53/473.

Noting with concern the reports of continued loss of sea birds, particularly albatross, as a result of incidental mortality from long-line fishing operations, and the loss of other marine species, including sharks and fin-fish species, as a result of incidental mortality,

Conscious of the need to promote and facilitate international cooperation, especially at the regional and subregional levels, in order to ensure the sustainable development and use of the living marine resources of the world's oceans and seas, consistent with the present resolution and with the duties of States to cooperate in the conservation and management of marine living resources, in accordance with the provisions of the United Nations Convention on the Law of the Sea,[2]

Once again expressing concern at the impact of large-scale drift-net fishing on the marine living resources of the oceans and seas, and noting that there are continuing reports of activities inconsistent with the terms of resolution 46/215,

Concerned also to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift-nets that contravene the resolution,

Expressing concern at the detrimental impact of unauthorized fishing in areas under national jurisdiction on the sustainable development of the world's fishery resources and on the food security and economies of many States, particularly developing States, and the continuing reports of unauthorized fishing activities, inconsistent with the terms of resolution 49/116, in zones of national jurisdiction,

Recalling that, pursuant to a proposal made at the twenty-second session of the Committee on Fisheries of the Food and Agriculture Organization of the United Nations in March 1997, that organization agreed to organize an expert consultation to develop and propose guidelines leading to a plan of action aiming at a reduction in the incidental catch of sea birds, to organize an expert consultation to develop and propose guidelines leading to a plan of action for the conservation and effective management of shark populations, and to hold a technical consultation on the management of fishing capacity to draft guidelines for the control and management of fishing capacities,

Noting with satisfaction that the Consultation on Management of Fishing Capacity, Shark Fisheries and the Incidental Catch of Sea Birds, held from 26 to 30 October 1998, and its preparatory meeting, held in July 1998, produced draft plans of action or elements thereof for approval at the February 1999 meeting of the Committee on Fisheries,

Recognizing the importance of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[3] and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, and noting that neither of these agreements has yet entered into force,

Noting that the Code of Conduct for Responsible Fisheries sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Recalling that Agenda 21, adopted at the United Nations Conference on Environment and Development,[4] calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing vessels on the high seas,

Noting with satisfaction that "Oceans and seas" will be the sectoral theme discussed by the Commission on Sustainable Development at its seventh session in 1999,

1. *Reaffirms the importance* it attaches to sustainable management and conservation of the marine liv-

[2] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

[3] A/CONF.164/37; see also A/50/550, annex I.

[4] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II.

ing resources of the world's oceans and seas, and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the United Nations Convention on the Law of the Sea, in particular, the provisions on cooperation set out in part V and part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas;

2. *Also reaffirms the importance* it attaches to compliance with its resolutions 46/215, 49/116, 49/118 and 52/29, and urges States and other entities to enforce fully such measures;

3. *Requests* all participants to work for the adoption of the outcomes of the technical consultation of the Food and Agriculture Organization of the United Nations, held in Rome from 26 to 30 October 1998, and encourages all States to act responsibly, as appropriate, at national, regional and global levels to implement the action plans or the guidelines, in particular those for the management of fishing capacity, once adopted by the Committee on Fisheries;

4. *Calls upon* States and other entities referred to in article 1, paragraph 2 (*b*), of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[3] that have not yet ratified or acceded to the Agreement to consider doing so at the earliest possible time, and to consider applying it provisionally;

5. *Also calls upon* States and other entities referred to in article 10, paragraph 1, of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas that have not submitted instruments of acceptance of the Agreement to consider doing so at the earliest possible time;

6. *Urges* all authorities of members of the international community that have not done so to take greater enforcement responsibility to ensure full implementation of the global moratorium on all large-scale pelagic drift-net fishing on the high seas, including enclosed seas and semi-enclosed seas, and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of resolution 46/215;

7. *Calls upon* States that have not done so to take measures, including measures to deter reflagging to avoid compliance with applicable obligations, to ensure that fishing vessels entitled to fly their flags do not fish in areas under the national jurisdiction of other States unless duly authorized by the authorities of the State concerned and in accordance with the conditions set out in the authorization, and do not fish on the high seas in contravention of the applicable conservation and management rules;

8. *Urges* States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action, including through assistance to developing countries, to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries;

9. *Reiterates its call* on organizations with development assistance programmes to make it a high priority to support, including through financial and/or technical assistance, the efforts of developing coastal States, in particular the least developed countries and the small island developing States, to improve the monitoring and control of fishing activities and the enforcement of fishing regulations, including through financial and technical support for regional and subregional meetings for this purpose;

10. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

11. *Also requests* the Secretary-General to ensure that reporting on all major fisheries-related activities and instruments is effectively coordinated, that any duplication of activities and reporting is minimized, and that relevant scientific and technical studies are disseminated to the international community, and invites the relevant specialized agencies, including the Food and Agriculture Organization of the United Nations, as well as regional and subregional fisheries organizations and arrangements, to cooperate with the Secretary-General to that end;

12. *Further requests* the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on further developments relating to the implementation of resolution 52/29, the status and implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and efforts undertaken in the Food and Agriculture Organization of the United Nations, referred to in paragraph 8 of resolution 52/29, taking into account the information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements and other relevant intergovernmental and non-governmental organizations;

13. *Decides* to include in the provisional agenda of its fifty-fifth session, under the item entitled "Oceans and law of the sea", the sub-item entitled "Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments".

69th plenary meeting
24 November 1998

MULTILATERAL

POLLUTION OF THE ENVIRONMENT

Agreement Concerning the Protection of the Mediterranean Coastal Waters, Monaco, 1976

Done at Monaco 10 May 1976

Entered into force 1 January 1981

Depositary: France

Primary source citation: United Nations Treaty Series

[TRANSLATION — TRADUCTION]

The Government of the French Republic, the Government of the Italian Republic and the Government of His Most Serene Highness the Sovereign Prince of Monaco,

Being anxious to safeguard the quality of the Mediterranean coastal waters, to prevent their pollution as far as possible and to improve their present condition,

Desiring to strengthen the local co-operation established in this field between the administrations of the three Governments.

Have agreed as follows:

Article 1. The three Governments shall establish an International Commission, hereinafter referred to as "the Commission", to carry out the objectives of this Agreement.

Article 2. The function of the Commission shall be to establish closer collaboration between the competent services of the three Governments with a view to combating the pollution of the waters of the territorial sea and of the internal waters off the continental coast between longitude 6° 7' E, to the West, and longitude 9° 8' E, to the East.

The Commission may, if need be, extend the above-mentioned geographical limits, in accordance with the procedure provided for in article 8, unless objection is made by one of the three Governments within three months following the adoption of the new limits.

Article 3. With a view to performing its functions in application of this Agreement, the Commission shall be responsible for:

(*a*) Examining any problem of common interest relating to the pollution of the waters;

(*b*) Promoting coordination between the competent administrative services in order to:
- Make a survey of the polluted areas;
- Share reciprocal information on construction projects liable to create a serious risk of pollution;
- Make an economic study of the infrastructures and equipment needed to combat the pollution of the waters;

(*c*) Encouraging and sponsoring, as necessary, study and research, exchange of information and meetings of experts within the context of scientific cooperation on subjects to be determined by the Commission, taking into account already existing local, national or international projects and material resources;

(*d*) Proposing to the three Governments any measure likely to protect the waters, in particular by concluding individual agreements.

Article 4. The Commission shall be composed of delegations of the three Governments. Each Government shall appoint a maximum of seven delegates, one of whom shall be head of the delegation. Each delegation may in addition include experts to review specific questions.

Article 5. The Commission shall be assisted by a Technical Committee composed of experts in water protection. Each Government shall appoint the technical experts.

The Commission may also request the establishment of other working groups to study particular problems.

Article 6. The Chairmanship of the Commission shall be held successively for a term of two years by the head of each delegation, in the order in which the Governments are listed in the preamble.

However, for the first term, the Chairmanship shall be held by the head of the delegation of Monaco.

Article 7. The Commission shall meet in regular session at least once a year upon convocation by its Chairman. Special sessions shall be convened by the Chairman at the request of a delegation. The Chairman shall propose the agenda. Each delegation may include in the agenda any items it wishes to be considered. The draft agenda shall be submitted to the delegations two months before the date of the meeting.

Article 8. Each delegation shall have one vote.

Decisions shall be adopted unanimously.

Article 9. The Commission shall establish relations as it deems necessary with the international bodies concerned with water pollution.

Article 10. The Commission shall submit each year to the three Governments a report of its work, containing in particular the results of the studies and research it has sponsored and also its recommendations.

Article 11. Each Government shall defray the expenses of its delegation to the Commission, the Technical Committee and any working groups, as well as the cost of research carried out in its own territory.

Expenses of common interest shall be shared by the three Governments in accordance with arrangements proposed by the Commission and agreed to by the said Governments. The same procedure should be followed also in cases where the Commission decides unanimously to approve exceptional investigations.

Article 12. The Commission shall establish its own rules of procedure.

Article 13. The Secretariat of the Commission shall be staffed by the Scientific Centre of Monaco.

Article 14. The working languages of the Commission shall be French and Italian.

Article 15. Each of the signatory Governments shall notify the Government of the Principality of Monaco that it has completed the constitutional procedures required for the entry into force of this Agreement; the Government of the Principality of Monaco shall immediately confirm the date of receipt of the notifications and shall inform the other signatory Governments.

The Agreement shall enter into force on the first day of the second month following the receipt of the last notification.

After the expiry of a period of three years from its entry into force, this Agreement may be denounced at any time. Such denunciation shall take effect three months after its notification to the depositary Government, which shall immediately inform the other signatory Governments.

The original of this Agreement, the texts of which in the French and Italian languages are equally authentic, shall be deposited in the archives of the Government of His Most Serene Highness the Sovereign Prince of Monaco, who shall transmit a certified true copy to each of the signatory Governments.

DONE at Monaco on 10 May 1976.

For the Government of the French Republic:

MICHEL PONIATOWSKI
Minister of State, Minister of the Interior

For the Government of the Italian Republic:

MARIO PEDINI
Minister of Scientific Research

For the Government of H.M.S.H. the Prince of Monaco:

ANDRÉ SAINT-MLEUX
Minister of State

Revision of the List of Substances to be Annexed to the Protocol Relating to the Intervention on the High Seas in Cases of Pollution by Substances Other than Oil of 2 November 1973, of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties of 29 November 1969, London, 1991

Done at London 4 July 1991

Entered into force 30 March 1993

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the United Nations

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ANNEX 8

RESOLUTION MEPC.49(31)

adopted on 4 July 1991

REVISION OF THE LIST OF SUBSTANCES TO BE ANNEXED TO THE PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING Resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body designated by the Organization to establish, not later than 30 November 1974, the list of substances to be annexed to the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973 (the 1973 Protocol),

NOTING FURTHER Resolution A.296(VII) by which the Assembly designated the Committee as the appropriate body referred to in articles I and III of the above-mentioned Protocol,

RECALLING Resolution MEPC.1(II) by which the Committee established on 21 November 1974 a list of substances to be annexed to the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, in accordance with Resolution 26 of the International Conference on Marine Pollution, 1973 and Resolution A.296(VII),

HAVING CONSIDERED proposals by governments for revising the list,

HAVING taken account of scientific advice provided by the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) with regard to evaluation of the hazards of harmful substances in the marine environment and by the International Atomic Energy Agency in respect of radioactive materials,

HAVING taken account of technical advice provided by the Sub-Committees on Bulk Chemicals and on the Carriage of Dangerous Goods,

1. ADOPTS by the required two-thirds majority of the Parties to the 1973 Protocol present and voting in the Committee the amended list which appears in the Annex to this Resolution;

2. REQUESTS the Secretary-General to communicate the amended list to all Parties to the 1973 Protocol in accordance with article III, paragraph 5, for acceptance, and inform them that the amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties, and that the amended list shall enter into force three months after it has been deemed to have been accepted;

3. REQUESTS FURTHER the Secretary-General to annex copies thereof to the authentic text of the Protocol in accordance with article I, paragraph 2(a), once the amended list has been accepted in accordance with article III, paragraph 6, to replace the existing list;

4. DECIDES that the list should be kept under review, in consultation and co-operation with competent international organizations, in particular the International Atomic Energy Agency in respect of radioactive materials.

ANNEX

LIST OF SUBSTANCES

Appendix 1

Oil carried in bulk as listed in appendix I to Annex I of MARPOL 73/78 other than those covered by the 1969 Intervention Convention

Asphalt solutions

Blending stocks
Roofers flux
Straight run residue

Oils

Clarified
Road oil
Transformer oil
Aromatic oil (excluding vegetable oil)
Mineral oil
Motor oil
Penetrating oil
Spindle oil
Turbine oil

Distillates

Straight run
Flashed feed stocks

Gas oil

Cracked

Naphtha

Solvent
Petroleum
Heartcut distillate oil

Gasolines blending stocks

Alkylates - fuel
Reformates
Polymer - fuel

Gasolines

Casinghead (natural)
Automotive
Aviation
Straight run
Fuel oil No.1 (Kerosene)
Fuel oil No. 1-D
Fuel oil No. 2
Fuel oil No. 2-D

Jet fuels

JP-1 (Kerosene)
JP-3
JP-5 (Kerosene, heavy)
Turbo fuel
Kerosene
Mineral spirit

Appendix 2

Noxious liquid substances carried in bulk

Acetone cyanohydrin
Acetic anhydride
Acrylonitrile
Alcohol (C12-C15) poly(1-3) ethoxylates
Alcohol (C12-C15) poly(3-11) ethoxylates
Alcohol (C6-C17)(secondary) poly(3-6) ethoxylates
Alcohol (C6-C17)(secondary) poly(7-12) ethoxylates
Allyl alcohol
Allyl chloride
Ammonium sulphide solution (45% or less)
Aniline
Benzene and mixtures having 10% benzene or more
Benzyl chloride
Butene oligomer
n-Butyl acrylate
Butylbenzenes (all isomers)
Butyl benzyl phthalate
n-Butyraldehyde
Calcium hypochlorite solution (more than 15%)
Calcium naphthenate in mineral oil
Camphor oil
Carbolic oil
Carbon disulphide
Carbon tetrachloride
Chlorinated paraffins (C10-C13)
Chlorobenzene
Chloroform
o-Chloronitrobenzene
m-Chlorotoluene
o-Chlorotoluene
p-Chlorotoluene
Chlorotoluenes (mixed isomers)
Coal tar
Coal tar naphtha solvent
Cobalt naphthenate in solvent naphtha
Creosote (coal tar)
Creosote (wood)
Cresols (all isomers)
Cresylic acid, sodium salt solution
Crotonaldehyde
Cyclohexyl acetate
1,3-Cyclopentadiene dimer (molten)
Cyclopentene
Decene
Decyl acrylate
Decyl alcohol (all isomers)
Dibutyl phthalate
Dichlorobenzenes (all isomers)
1,1-Dichloroethane
Dichloroethyl ether
1,6-Dichlorohexene
2,4-Dichlorophenol
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution (70% or less)
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution

1,1-Dichloropropane
1,2-Dichloropropane
1,3-Dichloropropane
1,3-Dichloropropene
Dichloropropene/Dichloropropane mixtures
Diethyl sulphate
Diglycidyl ether of bisphenol A
Diglycidyl ether of bisphenol F
Di-n-hexyl adipate
Diisobutylene
Diisobutyl phthalate
Diisopropylbenzene (all isomers)
Dimethyl adipate
Dimethylamine solution (45% or less)
Dimethylamine solution (greater than 45% but not greater than 55%)
Dimethylamine solution (greater than 55% but not greater than 65%)
Dinitrotoluene (molten)
Diphenyl
Diphenyl/Diphenyl ether mixtures
Diphenyl ether
Diphenyl ether/Diphenyl phenyl ether mixture
Diphenylmethane diisocyanate
Diphenylol propane-epichlorohydrin resins
Dodecene (all isomers)
Dodecyl alcohol
Dodecyl diphenyl ether disulphonate solution
Dodecyl phenol
Drilling brines, containing Zinc salts
Epichlorohydrin
Ethyl acrylate
Ethylene chlorohydrin
Ethylene dibromide
Ethylene dichloride
2-Ethylhexyl acrylate
2-Ethylhexylamine
Ethylidene norbornene
o-Ethylphenol
2-Ethyl-3-propylacrolein
Ethyltoluene
Fluorosilicic acid
Fumaric adduct of rosin, water dispersion
Glycidyl ester of C10 trialkylacetic acid
Heptyl acetate
Hexyl acetate
2-Hydroxyethyl acrylate
Isobutyl acrylate
Isophorone diisocyanate
Isopropylbenzene
Lactonitrile solution (80% or less)
Lauric acid
Mercaptobenzothiazol, sodium salt solution
Metam sodium solution
Methacrylic resin in 1,2-Dichloroethane solution
Methacrylonitrile
Methyl acrylate
Methylcyclopentadiene dimer
2-Methyl-5-ethyl pyridine
Methyl heptyl ketone
Methylnaphthalene
2-Methylpyridine

4-Methylpyridine
N-Methyl-2-pyrrolidone
Methyl salicylate
alpha-Methylstyrene
Motor fuel anti-knock compounds
Naphthalene (molten)
Naphthenic acids
Nitrobenzene
o-Nitrophenol (molten)
Nonene
Nonylphenol
Nonylphenol poly (4-12) ethoxylates
Octane (all isomers)
Octene (all isomers)
Octyl aldehydes
Octyl nitrates (all isomers)
Olefin mixtures (CS-C15)
Oleum
alpha-Olefins (C6-C18) mixtures
Pentachloroethane
Perchloroethylene
Phenol
Phosphorus, yellow or white
Pinene
n-Propyl chloride
Propylene tetramer
Propylene trimer
Rosin
Rosin soap (disproportionated) solution
Sodium hydrosulphide/Ammonium sulphide solution
Sodium hydrosulphide solution (45% or less)
Sodium sulphide solution
Sodium nitrite solution
Sodium thiocyanate solution (56% or less)
Styrene monomer
Tall oil (crude and distilled)
Tall oil soap (disproportionated) solution
Tetrachloroethane
Toluene
Toluene diisocyanate
Tributyl phosphate
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
1,2,3-Trichloropropane
Tricresyl phosphate (containing less than 1% ortho-isomer)
Tricresyl phosphate (containing 1% or more ortho-isomer)
Triethylbenzene
Trimethyl benzenes (all isomers)
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)
Trixylyl phosphate
Turpentine
1-Undecene
Undecyl alcohol
Vinylidene chloride
Vinyl neodecanoate
Vinyltoluene
White spirit, low (15-20%) aromatic
Xylenol

Appendix 3

Harmful substances carried in packaged form

Substances

Binapacryl
Cadmium compounds, except Cadmium selenide and Cadmium sulphide
Chlorined paraffins (C10-C13)
Chlorophenates
Copper cyanide
Coumarin derivative pesticides as follows:
- Brodifacoum
- Coumaphos

Cresyl diphenyl phosphate
Cypermethrin
Diphenylamine chloroarsine
Diphenylchloroarsine
Dodecylphenol
Ethyldichloroarsine
Fenpropathrin
Hexachlorobutadiene
Mercuric arsenate
Mercuric chloride
Mercuric nitrate
Mercuric potassium cyanide
Mercurous nitrate
Mercury acetates
Mercury ammonium chloride
Mercury based pesticides
Mercury benzoate
Mercury bromides
Mercury compounds except Mercuric sulphide and Mercury iodide
Mercury cyanide
Mercury gluconate
Mercury nucleate
Mercury oleate
Mercury oxide
Mercury oxycyanide desensitized
Mercury potassium iodide
Mercury salicylate
Mercury sulphates
Mercury thiocyanate
Nickel cyanide
Nickel carbonyl

Substances
Organochlorine pesticides as follows:
- Aldrin
- Camphechlor
- Chlordane
- DDT
- Dieldrin
- Endosulfan
- Endrin
- Heptachlor
- Lindane (gamma-BCH)

Organophosphorus pesticides as follows:
- Azinphos-methyl
- Azinphos-ethyl
- Bromophos-ethyl
- Carbophenothion
- Chlorpyriphos
- Chlorthiophos
- Dialifos
- Diazinon
- Dichlofenthion
- Dichlorvos
- Dimethoate
- EPN Ethion
- Fenitrothion
- Fenthion
- Fonofos
- Isoxathion
- Mevinphos
- Parathion
- Parathion-methyl
- Pirimiphos ethyl
- Phenthoate
- Phorate
- Phosalone
- Phosphamidon
- Pyrazophos
- Sulprophos
- Terbufos

Organotin compounds
Organotin pesticides
Osmium tetroxide
Pentachlorophenol
Phenylmercuric acetate
Phenylmercuric compounds
Phenylmercuric nitrate
Phosphorus, white or yellow
Polychlorinated biphenyls or terphenyls
Polyhalogenated biphenyls or terphenyls
Potassium cuprocyanide
Silver arsenite
Sodium cuprocyanide
Sodium pentachlorophenate
Triaryl phosphates
Tricresyl phosphates, more than 1% ortho-isomer
Zinc cyanide

Appendix 4

Radioactive materials

Radioactive materials which are transported in type B packages, or as fissile materials, or under special arrangement, as covered by the provisions of schedules 10 to 13 of class 7 of the International Maritime Dangerous Goods Code.

Appendix 5

Liquefied gases carried in bulk

Acetaldehyde
Anhydrous Ammonia
Chlorine
Dimethylamine
Ethyl chloride
Ethylene oxide
Hydrogen chloride, anhydrous
Hydrogen fluoride, anhydrous
Methyl bromide
Methyl chloride
Sulphur dioxide
Vinyl chloride monomer

Amendments to the Annex (Revision of the List of Substances to be Annexed) to the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil of 2 November 1973, of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties of 29 November 1969, London, 1996

Done at London 10 July 1996

Entered into force 19 December 1997

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

RESOLUTION MEPC.72(38)
adopted on 10 July 1996

REVISION OF THE LIST OF SUBSTANCES TO BE ANNEXED TO THE PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF POLLUTION BY SUBSTANCES OTHER THAN OIL

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body designated by the Organization to establish, not later than 30 November 1974, the list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973 (the 1973 Intervention Protocol),

NOTING FURTHER resolution A.296 (VIII) by which the Assembly designated the Committee as the appropriate body referred to in articles I and III of the above-mentioned Protocol,

RECALLING resolution MEPC.49(31) by which the Committee adopted on 4 July 1991 an amended list to replace the original list annexed to the Protocol,

RECALLING FURTHER that it had approved, at its thirty-fifth session, the Criteria for the Selection of Substances for Inclusion in the Annex to the 1973 Intervention Protocol,

NOTING ALSO that the 1992 amendments to the IBC Code and Amendment 27 of the IMDG Code had entered into force,

HAVING CONSIDERED the proposed amendments to Appendix 2, noxious liquid substances carried in bulk, and Appendix 3, harmful substances carried in packaged form, prepared by the Secretariat in accordance with the above-mentioned criteria and taking into account the recent amendments to the IBC and IMDG Codes,

1. ADOPTS, by the required two-thirds majority of the Parties to the 1973 Intervention Protocol present and voting in the Committee, the amended list which appears in the Annex to this resolution;

2. REQUESTS the Secretary-General to communicate the amended list to all Parties to the 1973 Intervention Protocol in accordance with article III, paragraph 5, for acceptance, and to inform them that the amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties, and that the amended list shall enter into force three months after it has been deemed to have been accepted; and

3. REQUESTS FURTHER the Secretary-General to annex copies thereof to the authentic text of the Protocol in accordance with article I, paragraph 2(a), once the amended list has been accepted in accordance with article III, paragraph 6, to replace the existing list.

ANNEX

ANNEX TO THE 1973 INTERVENTION PROTOCOL

LIST OF SUBSTANCES

Appendix 1

Oil carried in bulk as listed in Appendix I to Annex I of MARPOL 73/78 other than those covered by the 1969 Intervention Convention

Asphalt solutions
Blending stocks
Roofers flux
Straight run residue

Oils
Clarified
Road oil
Transformer oil
Aromatic oil (excluding vegitable oil)
Mineral oil
Motor oil
Penetrating oil
Spindle oil
Turbine oil

Distillates
Straight run
Flashed feed stocks

Gas oil
Cracked

Naphtha
Solvent
Petroleum
Heartcut distillate oil

Gasoline blending stocks
Alkylates - fuel
Reformates
Polymer - fuel

Gasolines
Casinghead (natural)
Automotive
Aviation
Straight run
Fuel oil No.1 (Kerosene)
Fuel oil No.1-D
Fuel oil No.2
Fuel oil No.2-D

Jet fuels
JP-1 (Kerosene)
JP-3
JP-5 (Kerosene, heavy)
Turbo fuel
Kerosene
Mineral spirit

Appendix 2

Noxious liquid substances carried in bulk

Acetone cyanohydrin
Acrylonitrile
Alachlor technical (90% or more)
Alcohol (C6-C17)(secondary) poly(3-6)ethoxylates
Alcohol (C12-C15) poly(1-6) ethoxylates
Alcohol (C6-C17) (secondary) poly(7-12)ethoxylates
Alcohol (C12-C15) poly(7-19) ethoxylates
Alkaryl polyethers (C9-C20)
Alkyl (C3-C4) benzenes
Alkyl (C5-C8) benzenes
Alkyl (C7-C9) nitrates
Alkyl acrylate-vinyl pyridine copolymer in toluene
Alkylbenzene,alkylindane,alkylindene mixture (each C12-C17)
Allyl alcohol
Allyl chloride
Ammonium sulphide solution (45% or less)
Aniline
Benzene and mixtures having 10% benzene or more*
Benzyl chloride
Benzyl alcohol
Butene oligomer
Butyl butyrate (all isomers)
Butyl benzyl phthalate
Butyl acrylate (all isomers)
Butylamine (all isomers)
Butyraldehyde (all isomers)
Calcium alkyl (C9) phenol sulphide/ Polyolefin phosphorosulphide mixture
Calcium hypochlorite solution (more than 15%)
Calcium long-chain alkyl phenate sulphide (C8-C40)
Camphor oil
Carbolic oil
Carbon disulphide
Carbon tetrachloride
Chlorinated paraffins (C10-C13)
Chloroacetic acid (80% or less)
Chlorobenzene
o-Chloronitrobenzene
Chloroform
Chlorohydrins (crude)
2- or 3-Chloropropionic acid
m-Chlorotoluene
o-Chlorotoluene
p-Chlorotoluene
Chlorotoluenes (mixed isomers)
Coal tar
Coal tar naphtha solvent
Coal tar pitch (molten)
Cobalt naphthenate in solvent naphtha
Creosote (coal tar)
Creosote (wood)
Cresols (all isomers)
Cresylic acid, dephenolized
Cresylic acid, sodium salt solution
Crotonaldehyde
1,5,9-Cyclododecatriene

Cyclohexyl acetate
Cyclohexylamine
1,3-Cyclopentadiene dimer (molten)
Cyclopentene
Decanoic acid
Decene
Decyl acetate
Decyl alcohol (all isomers)
Decyl acrylate
Decyloxytetrahydro-thiophene dioxide
Di-n-hexyl adipate
Di-n-propylamine
Dibutyl phthalate
Dibutyl hydrogen phosphonate
Dibutylamine
Dichlorobenzene (all isomers)
Dichloroethyl ether
1,6-Dichlorohexane
2,4-Dichlorophenol
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution (70% or less)
2,4-Dichlorophenoxyacetic acid, triisopropanolamine sah solution
1,2-Dichloropropane
1,3-Dichloropropene
Dichloropropene/Dichloro- propane mixtures
Diethyl sulphate
Diethylamine
Diethylaminoethanol
Diethylbenzene
Diglycidyl ether of bisphenol F
Diglycidyl ether of bisphenol A
Diisobutyl phthalate
Diisobutylamine
Diisobutylene
Diisopropylamine
Diisopropylbenzene (all isomers)
Dimethyl octanoic acid
Dimethyl adipate
Dimethyl hydrogen phosphite
Dimethylamine solution (greater than 55% but not greater than 65%)
Dimethylamine solution (greater than 45% but not greater than 55%)
Dimethylamine solution (45% or less)
N,N-Dimethylcyclohexylamine
Dinitrotoluene (molten)
1,4-Dioxane
Diphenyl
Diphenyl ether
Diphenyl ether/Diphenyl phenyl ether mixture
Diphenyl/Diphenyl ether mixtures
Diphenylamine, reaction product with 2,2,4-Trimethylpentene
Diphenylamines, alkylated
Diphenylmethane diisocyanate
Diphenylol propane
Diphenylol propane- epichlorohydrin resins
Dodecene (all isomers)
Dodecyl alcohol
Dodecyl diphenyl ether disulphonate solution
Dodecyl phenol
Dodecylamine/Tetradecylamine mixture
Dodecyldimethylamine/Tetradecyldimethylamine mixture

Drilling brines (containing Zinc salts)
Epichlorohydrin
Ethyl acrylate
Ethylamine solutions (72% or less)
Ethylamine
Ethylbenzene
N-Ethylbutylamine
Ethylene dichloride
Ethylene dibromide
Ethylene chlorohydrin
Ethylene oxide/Propylene oxide mixture with an Ethylene oxide content of not more than 30% in weight
Ethylene glycol methyl ether acetate
Ethylenediamine
2-Ethylhexyl acrylate
2-Ethylhexylamine
Ethylidene norbornene
o-Ethylphenol
2-Ethyl-3-propylacrolein
Ethyltoluene
Fluorosilicic acid (20-30%) in water solution
Formaldehyde solutions (45% or less)
Fumaric adduct of rosin, water dispersion
Furfural
Glycidyl ester of C10 trialkylacetic acid
Heptyl acetate
Hexamethylenediamine solution
Hexyl acetate
2-Hydroxyethyl acrylate
2-Hydroxy-4-(methylthio) butanoic acid
Isophorone diisocyanate
Isophoronediamine
Lactonitrile solution (80% or less)
Lauric acid
Liquid chemical wastes
Long chain polyetheramine in alkyl (C2-C4) benzenes
Long chain polyetheramine in aromatic solvent
Long chain alkaryl polyether (C11-C20)
Magnesium long chain alkyl salicylate (C11+)
Mercaptobenzothiazol, sodium salt solution
Metam sodium solution
Methacrylic resin in Ethylene dichloride
Methyl acrylate
Methyl butyl ketone
2-Methyl-6-ethyl aniline
Methyl heptyl ketone
Methyl methacrylate
Methylcyclopentadiene dimer
Methyl naphthalene (molten)
3-Methylpyridine
Methyl salicylate
alpha-Methylstyrene
Motor fuel anti-knock compounds (containing lead alkyls)
Naphthalene (molten)
Naphthenic acids
Neodecanoic acid
Nitrating acid (mixture of sulphuric and nitric acids)
Nitrobenzene
o-Nitrophenol (molten)
o- or p-Nitrotoluenes
Nonene (all isomers)

Nonyl phenol
Nonyl phenol polv(4-12) ethoxylates
Noxious liquid, N.F, (1) n.o.s. (trade name..., contains ...) S.T.1, Cat.A*
Noxious liquid, F, (2) n.o.s. (trade name..., contains ...) S.T.1, Cat.A*
Noxious liquid. N.F, (3) n.o.s. (trade name..., contains ...) S.T.2, Cat.A*
Noxious liquid, F, (4) n.o.s. (trade name .... contains ...) S.T.2, Cat.A*
Noxious liquid, N.F, (5) n.o.s. (trade name..., contains ...) S.T.2, Cat.B*
Noxious liquid, N.F, (6) n.o.s. (trade name..., contains ...) S.T.2, Cat. B*, mp
Noxious liquid. F, (7) n.o.s. (trade name..., contains ...) S.T.2, Cat.B*
Noxious liquid, F, (8) n.o.s. (trade name..., contains ...) S.T.2, Cat.B*, mp
Noxious liquid, N.F, (9) n.o.s. (trade name..., contains ...) S.T.3, Cat.A*
Noxious liquid, F, (10) n.o.s. (trade name..., contains ...) S.T.3, Cat.A*
Noxious liquid, N.F, (11) n.o.s. (trade name..., contains ...) S.T.3, Cat.B*
Noxious liquid. N.F, (12) n.o.s. (trade name..., contains ...) S.T.3, Cat.B*, mp
Noxious liquid, F, (13) n.o.s. (trade name..., contains ...) S.T.3, Cat.B*
Noxious liquid, F, (14) n.o.s. (trade name-, contains ...) S.T.3, Cat.B*, mp
Octene (all isomers)
Octyl aldehydes
Olefin mixtures (C5-C15)
alpha-Olefins (C6-C18) mixtures
Oleum
Oleylamine
Palm kernel acid oil
Pentachloroethane
Perchloroethylene
Phosphorus, yellow or white
Phthalic anhydride (molten)
alpha-Pinene
beta-Pinene
Poly(2+)cyclic aromatics
Polyethylene polyamines
Polyolefin amide alkeneamine (C28+)
Polyolefin amide alkeneamine borate (C28-C250)
Polyolefin amide alkeneamine polyol
Polyolefinamine in aromatic solvent
Polyolefinamine in alkyl (C2-C4) benzenes
Polyolefin ester (C28-C250)
beta-Propiolactone
Propionitrile
n-Propylamine
Propylbenzene (all isomers)
Propylene trimer
Propylene oxide
Propylene tetramer
Rosin soap (disproportionated) solution
Rosin
Sodium sulphide solution (15% or less)
Sodium dichromate solution (70% or less)
Sodium hydrogen sulphide (6% or less)/Sodium carbonate (3% or less) solution
Sodium hydrosulphide solution (45% or less)
Sodium hydrosulphide/Ammonium sulphide solution
Sodium petroleum sulfonate
Sodium nitrite solution
Sodium thiocyanate solution (56% or less)
Styrene monomer
Sulpho hydrocarbon long chain (C18+) alkylamine mixture
Sulphuric and
Sulphuric acid, spent
Tall oil (crude and distilled)
Tall oil fatty acid (resin acids less than 20%)

Tall oil soap (disproportionated) solution
Tall oil fatty acid, barium salt
Tetrachloroathane
Tetramethylbenzene (all isomers)
Toluene
Toluene diisocyanate
Toluenediamine
o-Toluidine
Tributyl phosphate
1,2,4-Trichlorobenzene
Trichloroethylene
Tricresyl phosphate (containing 1% or more ortho-isomer)
Tricresyl phosphate (containing less than 1% ortho-isomer)
Triethylamine
Triethylbenzene
Trierthylenetetramine
Triethylphosphite
Triisopropylated phenyl phosphates
Trimethylamine solution (30% or less)
Trimethylbenzene (all isomers)
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)
Trixylyl phosphate
Turpentine
Undecanoic acid
1-Undecene
Undecyl alcohol
Vinyl neodecanoate
Vinylidene chloride
Vinyltoluene
White spirit, low (15-20%) aromatic
Xylenes
Xylenol
Zinc alkaryl dithiophosphate (C7-C16)
Zinc alkyl dithiophosphate (C3-C14)

Appendix 3

Harmful substances in packaged form

Aldrin
Azinphos-ethyl
Azinphos-methyl
gamma-BHC
Binapacryl
Brodifacoum
Bromophos-ethyl
Cadmium compound
Camphechlor
Carbophenothion
Chlordane
Chlorinated paraffin(C10-C13)
Chlorophenolates, liquid
Chlorophenolates, solid
Chlorpyriphos
Chlorthiophos
Copper cyanide
Copper metal powder
Coumaphos
Cresyl diphenylphosphate
Cupric cyanide
Cupric sulphate
1,5,9-Cyclododecatriene
Cyhexatin
Cymenes (ortho-; meta-; para-)
Cymol
Cypermethrin
DDT
Dialifos
Diazinon
Dichlofenthion
Dichlorvos
Dieldrin
Dimethoate
Diphenylaminechloroarsine
Diphenylchloroarsine, liquid
Diphenylchloroarsine, solid
Dodecylphenol
Endosulfan
Endrin
EPN
Esfenvalerate
Ethion
Fenbutatin oxide
Fenitrothion
Fenpropathrin
Fenthion
Fentin acetate
Fentin hydroxide
Fonofos
Heptachlor
Hexachlorobutadiene
Hexachloro-1,3-butadiene
1,3-Hexachlorobutadiene
Isopropyltoluene

Isopropyltoluol
Isoxathion
Lindane
Mercuric acetate
Mercuric ammonium chloride
Mercuric arsenate
Mercuric benzoate
Mercuric bisulphate
Mercuric bromide
Mercuric chloride
Mercuric cyanide
Mercuric gluconate
Mercuric nitrate
Mercuric oleate
Mercuric oxide
Mercuric oxycyanide, desensitized
Mercuric potassium cyanide
Mercuric sulphate
Mercuric thiocyanate
Mercurol
Mercurous acetate
Mercurous bisulphate
Mercurous bromide
Mercurous chloride
Mercurous nitrate
Mercurous salicylate
Mercurous sulphate
Mercury acetate
Mercury ammonium chloride
Mercury-based pesticide, liquid, flammable, toxic, flashpoint less than 23°C c.c.
Mercury-based pesticide, liquid, toxic
Mercury-based pesticide, liquid, toxic, flammable, flashpoint between 23°C and 61°C c.c.
Mercury-based pesticide, solid, toxic
Mercury benzoate
Mercury bichloride
Mercury bisulphate
Mercury bromides
Mercury compound, liquid, n.o.s.
Mercury compound, solid, n.o.s.
Mercury(ii) (mercuric) compounds or Mercury(i) (mercurous) compounds
Mercury cyanide
Mercury gluconate
Mercury nucleate
Mercury oleate
Mercury oxide
Mercury oxycyanide, desensitized
Mercury potassium cyanide
Mercury potassium iodide
Mercury salicylate
Mercury sulphate
Mercury thiocyanate
Methylpropylbenzenes
Mevinphos
Nickel carbonyl
Nickel cyanide
Nickel tetracarbonyl
Organotin compound, liquid, n.o.s.
Organotin compound, solid, n.o.s.
Organotin compounds
(pesticides)

Organotin pesticide, liquid, flammable, toxic, flashpoint less than 23°C c.c.
Organotin pesticide, liquid, toxic
Organotin pesticide, liquid, toxic, flammable, flashpoint between 23°C and 61°C c.c.
Organotin pesticide, solid, toxic
Osmium tetroxide
Parathion
Parathion-methyl
PCB's
Pentachlorophenol
Pbenarsazine chloride
Phenthoate
Phenylmercuric acetate
Phenylmercuric compound, n.o.s.
Phenylmercuric hydroxide
Phenylmercuric nitrate
Phorate
Phosalone
Phosphamidon
Phosphorus, white, dry
Phosphorus, white, molten
Phosphorus, white, under water
Phosphorus, yellow, dry
Phosphorus, yellow, molten
Phosphorus, yellow, under water
Polychlorinated biphenyls
Polyhalogenated biphenyls, liquid
Polyhalogenated biphenyls, solid
Polyhalogenated ter-phenyls, liquid
Polyhalogenated ter-phenyls, solid
Potassium cuprocyanide
Potassium cyanocuprate
Potassium cyanomercurate
Potassium mercuric iodide
Pyrazophos
Quizalofop
Quizalofop-p-ethyl
Sodium copper cyanide, solid
Sodium copper cyanide, solution
Sodium cuprocyanide, solid
Sodium cuprocyanide, solution
Sodium pentachlorophenate
Sulprophos
White phosphorus, dry
White phosphorus, wet
Yellow phosphorus, dry
Yellow phosphorus, wet
Terbufos
Tetrachlorvinphos

Appendix 4

Radioactive materials

Radioactive materials which are transported in type B package, or as fissile materials, or under special arrangements, as covered by the provisions of schedule 10 to 13 of class 7 of the International Maritime Dangerous Goods Code.

Appendix 5

Liquefied gases carried in bulk

Acetaldehyde
Anhydrous ammonia
Chlorine
Dimethylamine
Ethyl chloride
Ethylene oxide
Hydrogen chloride, anhydrous
Hydrogen fluoride, anhydrous
Methyl bromide
Methyl Chloride
Sulphur dioxide
Vinyl chloride monomer

Organization of Economic Cooperation and Development (OECD) Decision concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, Paris, 1992

Done at Paris 30 March 1992

Entered into force (per country)

Depositary: Organization of Economic Cooperation and Development, France

Primary source citation: Copy of text provided by the U.S. Department of State

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Pollution: Transfrontier Movements of Hazardous Wastes

Decision done at Paris March 30, 1992;
Entered into force March 30, 1992.

DECISION OF THE COUNCIL
concerning the control of transfrontier movements of wastes destined for recovery operations*

(adopted by the Council at its 778th Session on 30th March 1992)

THE COUNCIL,

Having regard to Article 5a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Decision and Recommendation of the Council of 1 February 1984 on Transfrontier Movements of Hazardous Waste [C(83)180(Final)] which requires Member countries to control transfrontier movements of hazardous wastes;

Having regard to the Decision of the Council of 27 May 1988 on Transfrontier Movements of Hazardous Wastes [C(88)90(Final)] which defines "wastes", identifies those wastes referred to as hazardous wastes in relevant Council Acts, and sets out a classification system for wastes subject to transfrontier movements;

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* Japan abstained.

Having regard to the Decision-Recommendation of the Council of 31 January 1991 on the Reduction of Transfrontier Movements of Wastes [C(90)178/ FINAL] which, inter alia, calls for delineation of such controls as may be appropriate for the transfrontier movement of wastes destined for recovery operations, clarification of the definition of such wastes and characterization of those wastes which may require differing levels of control;

Having regard to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted on 22 March 1989, and noting that most Member countries and the European Economic Community have become signatories to this Convention;

Desiring to conclude an arrangement or agreement under Article 11 of that Convention;

Noting that recovery of valuable raw materials from wastes has been an integral part of the international economic system and that well established international markets exist for the collection and processing of such wastes;

Noting further that many industrial sectors are already implementing waste recovery techniques in an economically and environmentally satisfactory manner, thus protecting limited virgin sources of raw materials, and convinced that further efforts in this direction are necessary and should be encouraged;

Recognising that efficient and environmentally sound management of wastes may justify some transfrontier movements of such wastes in order to make use of adequate recovery facilities in other countries;

Convinced however that, pursuant to the obligations set forth in the relevant Council Acts and compatible with the provisions of the Basel Convention, an appropriate system should be implemented to control transfrontier movements of those wastes destined for recovery operations;

Convinced that all persons involved in any contracts or arrangements for transfrontier movements of wastes destined for recovery operations must have the appropriate legal status to ensure environmentally sound management of these wastes; and

Recognizing that work is now in progress within the United Nations Environment Programme concerning the environmentally sound management of hazardous wastes.

On the proposal of the Environment Committee:

I. DECIDES that Member countries shall control transfrontier movements of wastes destined for recovery operations within the OECD area as specified in Annex 1 which is an integral part of this Decision.

II. INSTRUCTS the Environment Committee in co-operation with other relevant OECD bodies, in particular the Trade Committee, to review periodically the control system and the lists of wastes set out in Annex 1, taking into account the criteria listed in Annex 2, and to make any proposals it deems necessary for revisions of Annex 1.

III. INSTRUCTS the Environment Committee in co-operation with other relevant OECD bodies to review annually action taken by Member countries in pursuance of this Decision.

IV. REQUESTS the Secretary General to transmit this Decision to the Executive Director of the United Nations Environment Programme and the Interim Secretariat of the Basel Convention.

Annex 1

I. DEFINITIONS

For the purposes of this Decision:

WASTES are as defined in OECD Council Decision C(88)90(Final) of 27 May 1988.

RECOVERY OPERATIONS mean activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988.

TRANSFRONTIER MOVEMENT means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.

RECOVERY FACILITY means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

INTERNATIONAL WASTE IDENTIFICATION CODE ("IWIC") is the classification system specified and described in OECD Council Decision C(88)90(Final) of 27 May 1988.

EXPORTING COUNTRY means any OECD Member country from which a transfrontier movement of wastes is planned or has commenced.

IMPORTING COUNTRY means any OECD Member country to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

COUNTRY OF TRANSIT means any OECD Member country other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

CONCERNED COUNTRIES means the exporting and importing OECD Member countries and any OECD Member countries of transit.

OECD AREA means all land or marine areas under the national jurisdiction of any OECD Member country.

COMPETENT AUTHORITIES means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

PERSON means any natural or legal person whether public or private.

NOTIFIER means the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations.

CONSIGNEE means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

RECOGNISED TRADER means a person who, with appropriate authorisation of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

GENERATOR means a person whose activities create wastes.

II. GENERAL PROVISIONS

(1) All of the following conditions shall apply to transfrontier movements of wastes subject to this Decision:

(a) The wastes shall be destined for recovery operations within a facility which, under applicable domestic law, is operating or is authorized to operate in the importing country;

(b) The transfrontier movements shall be carried out under terms of applicable international transport agreements. (Appendix 1 contains an illustrative list of such agreements);

(c) Any transit of wastes through a non-member country shall be subject to all applicable international and national laws and regulations.

(2) A three-tiered system serves to delineate controls to be applied to such transfrontier movements:

(a) *"Green" tier*

Wastes destined for recovery operations included on the green list shall move among OECD Member countries toward recovery operations subject to all existing controls normally applied in commercial transactions. These provisions shall not apply to wastes on this list which are contaminated by other materials to an extent which increases the risks associated with the wastes sufficiently to render them appropriate for inclusion in the amber or red lists, when taking into account the criteria in Annex 2.

(b) *"Amber" tier*

Wastes destined for recovery operations included in the amber list shall be subject to the control system set out in Section IV of this Annex.

(c) *"Red" tier*

Wastes destined for recovery operations included in the red list shall be subject to the controls indicated in Section V of this Annex.

(3) The criteria listed in Annex 2 must be taken into account for evaluating wastes for inclusion on the green, amber or red lists. In accord with provisions of this Decision, items may be added, altered or deleted periodically. Subject to Section III (2) no single criterion shall be used in isolation in assigning wastes to the lists.

(4) While the lists are intended to be exclusive, a specific waste included in either the amber or red lists might not be legally defined or considered to be a hazardous waste in the exporting country because the competent authorities of that country are satisfied that it does not exhibit any of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90(Final) as determined using national procedures*. If, however, this waste is legally defined or considered to be a hazardous waste by the importing country, then all of the requirements set forth in Section IV or Section V - whichever is applicable - shall apply as follows: the importing country shall assume the obligations of the exporting country under these Sections, in particular as regards the notification requirements. A copy of the notification form must be transmitted to the competent authorities of the exporting country. Member countries operating under provisions of this paragraph shall promptly inform the OECD Secretariat of the waste(s) involved and applicable legislative requirements.

(5) Member countries who prescribe the use of certain tests and testing procedures in order to determine whether a waste exhibits one or more of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90(Final) shall inform the OECD Secretariat concerning which tests and testing procedures are being so utilized; and, if possible, which wastes would or would not be legally defined or considered to be hazardous wastes based upon application of these national procedures.

(6) This Decision does not prejudice the right of Member countries to control certain wastes which have been assigned to the green list as if those wastes had been assigned to one of the other lists, in conformity with domestic legislation and the rules of international law, in order to protect human health and the environment. In such cases, Member countries exercising this right shall immediately inform the OECD secretariat citing the specific waste(s) and applicable legislative requirements.

(7) Wastes which are destined for recovery operations but have not yet been assigned to the green, amber or red lists shall be eligible for transfrontier movements pursuant to this Decision subject to the following conditions:

i) Member countries shall identify such wastes and bring them to the attention of the review mechanism established by operative paragraphs II and III of this Decision;

ii) such wastes shall be promptly examined by the Review Mechanism in order to assign them to the

* The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many Member countries have developed tests which can be applied to materials destined for disposal by means of operations listed in Table 2 of OECD Council Decision C(88)90(Final) in order to decide if these materials exhibit any of the hazardous characteristics listed in Table 5 of that Decision.

appropriate list;

iii) pending assignment to a list, such wastes shall be subject to the controls required for the transfrontier movements of wastes by the domestic legislation of the concerned countries in order that no country is obliged to enforce laws other than its own;

iv) however, if such wastes exhibit a hazardous characteristic listed in Table 5 of OECD Council Decision C(88)90(Final) as determined using national procedures and any applicable international agreements, such wastes shall be subject to controls applicable to the red tier.

(8) If two or more lots of wastes are mixed and/or otherwise subjected to physical or chemical transformation operations, the person who performs these operations shall be deemed to be the generator of the new wastes resulting from these operations.

III. GREEN TIER

(1) Specific items included in the green list are shown under their corresponding main categories. Only the items specified under a main category and not the main categories themselves are part of the green list.

(2) Wastes may not be included in the green list if they exhibit any of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90(Final). The procedures in force in each Member country for determining whether a specific waste does or does not exhibit one or more of these characteristics are taken into account in placing or not placing a waste onto the green list.

(3) If green list wastes are re-exported, responsibilities of the exporting country under other relevant agreements or conventions shall transfer to the country initiating the re-export, and shall not apply to the original exporting country.

(4) *Green list of wastes*

The green list of wastes is set out at Appendix 3.

IV. AMBER TIER

(1) *Conditions*

Transfrontier movements of wastes under the amber control system may only occur under the terms of a valid written contract, or chain of contracts, or equivalent arrangements between facilities controlled by the same legal entity, starting with the notifier and terminating at the recovery facility. All persons involved in the contracts, or arrangements shall have appropriate legal status.

Such contracts shall include provisions for financial guarantees in accordance with applicable national or international law requirements. Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. These contracts shall also specify which party to the contract shall assume responsibility for alternate management of the wastes. These contracts shall also specify and, as the case may be, require from the consignee the notification required in 3(a) below (Re-export to a Third Country).

In such cases:

i) the person having actual possession or physical control over the wastes shall immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country;

ii) the person specified in the contract shall assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, their return.

The competent authorities of the concerned countries shall require that the necessary actions are carried out within a limited period of time, and shall not oppose, hinder or prevent the return of those wastes to the exporting country.

(2) *Control System*

Procedures are provided under the amber control system for the following two cases:

i) transactions which require consent for specific shipments to a recovery facility; and

ii) transactions involving specific recovery facilities to which the competent authorities having jurisdiction over such recovery facilities have granted general pre-consent concerning the reception of certain wastes.

Case (1): Provisions concerning transactions requiring specific consent.

(a) Prior to commencement of the transfrontier movement, the notifier shall provide written notification to the competent authorities of the concerned countries; this notification shall include all of the information listed in Appendix 2.A. The competent authorities of the exporting country may, in accord with domestic laws, decide to transmit this notification instead of the notifier.

(b) The competent authorities of the importing country, upon receipt of the completed notification referred to in paragraph (a) above, shall transmit an acknowledgement to the notifier with a copy to the competent authorities of other concerned countries within three (3) working days of their receiving the notification.

(c) The competent authorities of the exporting and importing countries shall have thirty (30) days to object in accord with their respective domestic laws to the proposed transfrontier movement. The 30-day period shall commence upon issuance of the acknowledgment referred at paragraph (b) above.

(d) Countries of transit may, in accord with domestic laws, object to the transfrontier movement entering their territory,

(e) Any objection by any of the concerned countries must be provided in writing to the notifier and to the competent authorities of other concerned countries within the 30-day period.

(f) If no objection has been lodged, the transfrontier movement may commence after the 30-day period has passed. Tacit consent, however, expires within one (1) calendar year from that date.

(g) The competent authorities of the concerned countries may decide to provide written consent in a period less than the 30 days. The transfrontier movement may commence immediately after all necessary consents are received.

(h) Written consent or objection may be provided by post, or by telefax followed by post. Such consent shall expire within one (1) calendar year unless otherwise specified.

(i) Each transfrontier movement shall be accompanied by a tracking document which includes the information listed in Appendix 2.

(j) Within three (3) days of the receipt of the wastes by the recovery facility, the recovery facility shall provide a signed copy of the tracking document to the notifier and to the competent authorities of the concerned countries. The recovery facility shall retain the original of the tracking document for three (3) years.

(k) In cases where essentially similar wastes (e.g. those having essentially similar physical and chemical characteristics) are to be sent periodically to the same recovery facility by the same notifier, the competent authorities of the concerned countries may elect to accept one notification for these wastes for a period of up to one year:

i) Such acceptance may be renewed for further periods of up to one year each;

ii) Revocation of this acceptance may be accomplished by means of official notice to the notifier from any of the competent authorities of the concerned countries. Notice of revocation of acceptance for shipments previously granted under this provision shall be given to the competent authorities of all concerned countries by the competent authorities of the country that revokes such acceptance.

Case (2): Provisions relating to pre-consent by competent authorities for shipments to specific recovery facilities.

(a) Competent authorities having jurisdiction over specific recovery facilities may decide not to raise objections concerning shipments of certain types of wastes to a specific recovery facility. Such decisions can be limited to a specified period of time; however, they may be revoked at any time.

(b) Competent authorities who elect this option shall inform the OECD Secretariat of the recovery facility name, address, technologies employed, waste types to which the pre-consent applies, and the period covered. Any revocations must also be notified to the OECD Secretariat.

(c) All proposed transfrontier movements to such facilities shall require notification; the notifier shall provide to the competent authorities of the concerned countries the information listed in Appendix 2 A. Such notification shall arrive prior to the time the shipment is dispatched.

(d) The competent authorities of the exporting and transit country may, in accord with their domestic laws, prohibit or otherwise restrict any such transfrontier movement.

(e) In instances where competent authorities acting under terms of their domestic laws are required to review the contracts referred to in (1) above (Conditions), these authorities shall so inform the OECD Secretariat. In such cases, the notification information plus the contract(s) or portions thereof to be reviewed must arrive seven (7) days prior to the time the shipment is dispatched in order that such review may be appropriately performed.

(f) Paragraphs (i), (j) and (k) of Case (1) shall apply.

(3) *Additional provisions relating to re-export to a third country*

(a) Re-export from an importing country of wastes subject to the amber control system may only occur following notification by a notifier in the importing country to the competent authorities of the initial exporting country, which shall be acknowledged within three (3) working days of receipt. The competent authorities of the initial exporting country shall have thirty (30) days to object to the proposed movement. The 30-day period shall commence upon issue of the acknowledgement referred to above. If no objection has been lodged, the transfrontier movement may commence after the 30-day period has passed. The competent authorities may decide to provide written consent in a period of less than 30 days. The transfrontier movement may commence immediately after such consent is received. Written consent may be provided by telefax in the first instance, followed by post if required.

(b) Re-export to a country outside the OECD area shall be fully subject to, and in accord with, all international agreements and arrangements to which the importing OECD Member country is a party.

(4) *Provisions relating to recognised traders*

(a) A recognised trader who takes physical custody of the wastes and intends to perform any of the operations in Table 2 B of OECD Council Decision C(88)90(Final) shall require appropriate authorisation from its competent authorities to act as a recovery facility.

(b) A recognised trader may act as a notifier or consignee for wastes with all the responsibilities associated with being a notifier or consignee.

(c) The contracts referred to in (1) above (Conditions) shall:

i) clearly identify: the generator of each type of waste; each person who shall have physical custody of the wastes; each person who shall have legal control of the wastes; and the recovery facility;

(c) provide that all requirements of this Decision are taken into account and are legally binding on all parties to the contracts.

(d) The notification information called for at Appendix 2A shall include a signed declaration by the notifier that the appropriate contracts are in place and are legally enforceable in all concerned countries.

(e) Competent authorities of the exporting and importing countries may under terms of their domestic laws require the notifier to provide copies of such contracts or portions thereof.

(f) Any information contained in the contracts provided under terms of paragraph (e) above shall be held as strictly confidential in accordance with, and to the extent allowable by, domestic laws.

(5) *Provisions relating to wastes designated for exchange or accumulation prior to submission to recovery operations designated R1–R11 in Table 2B of OECD Council Decision C(88)90(Final)*

(a) The notification information included in Appendix 2A shall also indicate that exchange or storage is foreseen for the wastes covered by the notification.

(b) The competent authorities of concerned countries may request that the recovery facility where operations designated R1-R11 in Table 2B of Council Decision C(88)90(Final) will occur be identified.

(c) The tracking document referred to in Appendix 2B shall accompany the wastes to the recovery facility noted in paragraph (b) above which shall then comply with paragraph (3) of (2) above (Control System).

(6) *Amber list of wastes*

The amber list of wastes is set out at Appendix 4.

V. RED TIER

(1) The red list represents certain specific substances which, even moved in an adequately managed way, nevertheless must be controlled in a more stringent way than provided for by the amber control system. Wastes included in the red list shall be subject to the same controls as applied to wastes included in the amber list (see Section IV), and shall move in accord with Case (1), except that the importing and any transit countries must provide written consent prior to commencement of the transfrontier movement.

(2) *Red list of wastes*

The red list of wastes is set out at Appendix 5.

VI. ACTIONS TO PROMOTE HARMONISED IMPLEMENTATION

(1) Member countries individually, and as a group acting through the Review Mechanism established in this Decision, shall take appropriate steps toward improving the green, amber and red lists of wastes and toward uniform application of this Decision.

(2) Member countries shall cooperate in efforts aimed at:

(i) developing procedures for evaluating the criteria in Annex 2 to determine to which list a waste should be assigned; and

(ii) harmonising procedures for determining whether a waste exhibits any of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90 Final).

(3) Member countries shall cooperate to identify and assess steps taken toward optimization of environmentally sound and economically efficient practices for recovery operations of each waste.

(4) When Sections II(4), II(6) and II(7) must be resorted to, Member countries shall cooperate to ensure that the provisions of this Decision are fully complied with.

(5) The OECD Secretariat shall circulate to all Member countries the information provided in accordance with this Decision, in particular under Sections II(4), II(5), II(6) and II(7).

Appendix I
INTERNATIONAL TRANSPORT AGREEMENTS

1. Chicago Convention:

   Convention on International Civil Aviation (1944) Annex 18 which deals with the carriage of dangerous goods by air (T.I.: Technical Instructions for the Safe Transport of Dangerous Goods by Air);

2. ADR:

   European Agreement concerning the International Carriage of Dangerous Goods by Road (1957);

3. ADNR:

   Regulations of the Carriage of Dangerous Substances on the Rhine (1970).

4. MARPOL Convention:

   International Convention for the Prevention of' Pollution from Ships (1973/1978);

5. SOLAS Convention:

   International Convention for the Safety of Life at Sea (1974);

6. IMDG Code:

   International Maritime Dangerous Goods Code; (incorporated into SOLAS since 1985)

7. COTIF:

   Convention concerning the International Carriage of Goods by Rail (1985);

8. RID:

   Regulation on the International Carriage by Rail of Dangerous Goods (1985) [Annex I to COTIF];

Appendix 2
NOTIFICATION AND TRACKING INFORMATION

A. *INFORMATION TO BE SUBMITTED UPON NOTIFICATION*

1) Serial number or other accepted identifier of notification form.

2) Notifier name, address, telephone, telefax.

3) Recovery facility name, address, telephone, telefax, and technologies employed

4) Consignee if not the recovery facility, address, telephone, telefax

5) Intended carrier(s) and/or their agents.

6) Country of export and relevant competent authority

7) Countries of transit and relevant competent authorities.

8) Country of import and relevant competent authority.

9) Is this a single notification or a general notification? If general, period of validity requested.

10) Date foreseen for commencement of transfrontier movement.

11) Certification that any applicable insurance or other financial guarantee is or shall be in force covering the transfrontier movement.

12) Designation of waste type(s) on the appropriate list (amber or red) and their description(s), probable total quantity of each, and an accepted uniform classification code (such as the IWIC) for each.

13) Certification of the existence of written contract or chain of contracts or equivalent arrangement as required by this Decision.

14) Certification by notifier that the information is complete and correct to the best of his knowledge

B. *TRACKING DOCUMENT*

Include all information at A. above plus

(a) Date shipment was dispatched

(b) Shipper (if not notifier), address, telephone, telefax

(c) Actual carrier(s)

(d) Means and mode of transport including types of packaging

(e) Any special precautions to be taken by carrier(s)

(f) Declaration by notifier that no objection has been lodged by the competent authorities of all concerned countries. This declaration requires signature of the notifier.

(g) Appropriate signatures for each custody transfer.

C. *ALL OF THIS INFORMATION SHALL BE PROVIDED ON A FORM TO BE DEVELOPED FOR USE WITHIN THE OECD AREA*

D. *NOTE.* Under terms of domestic legislation, some Member countries require information in addition to that included in A and B above in order to assess aspects of the environmentally sound management of wastes. Affected countries shall inform the OECD Secretariat and provide a list of the additional information needed.

Appendix 3
GREEN LIST OF WASTES*

Regardless of whether or not wastes are included on this list, they may not be moved as Green Tier wastes if they are contaminated by other materials to an extent which (a) increases the risks associated with the waste sufficiently to render it appropriate for inclusion in the amber or red lists, when taking into account the criteria in Article 2, or (b) prevents the recovery of the waste in an environmentally sound manner.A. *METAL AND METAL-ALLOY WASTES IN METALLIC. NON DISPERSIBLE FORM***

The following waste and scrap of precious metals and their alloys:

711210 - of gold

711220 - of platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)

711290 - of other precious metal, e.g., silver

N.B. (1) Mercury is specifically excluded as a component of these metals

(2) Electrical assemblies wastes shall consist only of metals or alloys

(3) Electronic scrap (subject to specifications, these to be reviewed by the Review Mechanism)

The following ferrous waste and scrap; remelting scrap ingots of iron or steel:

720410 - Waste and scrap of cast iron

720421 - Waste and scrap of stainless steel

720429 - Waste and scrap of other alloy steels

720430 - Waste and scrap of tinned iron or steel

720441 - Turnings, shavings, chips, milling waste, filings, trimmings and stampings, whether or not in bundles

720449 - Other ferrous waste and scrap

720450 - Remelting scrap ingots

ex 730210 Used iron and steel rails

The following waste and scrap of non-ferrous metals and their alloys:

740400 Copper waste and scrap

750300 Nickel waste and scrap

760200 Aluminum waste and scrap

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* Whenever possible, the Harmonized Commodity Description and Coding System, established by the Brussels Convention of 14th June 1983 under the auspices of the Customs Co-operation Council (hereinafter Harmonized Customs Code) is listed opposite an entry. This code may apply to both wastes and products. This Decision does not include items which are not wastes. Therefore, the code - used by customs officials in order to facilitate their procedures as well as by others - is only provided here to help in identifying wastes that are listed and subject to this Decision. However, corresponding official explanatory notes as issued by the Customs Co-operation Council should be used as interpretative guidance to identify wastes covered by generic headings.

The indicative "ex" identifies a specific item contained within the Harmonized Customs Code heading.

** "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

ex 780200	Lead waste and scrap
790200	Zinc waste and scrap
800200	Tin waste and scrap
ex 810191	Tungsten waste and scrap
ex 810291	Molybdenum waste and scrap
ex 810310	Tantalum waste and scrap
810420	Magnesium waste and scrap
ex 810510	Cobalt waste and scrap
ex 910600	Bismuth waste and scrap
ex 810710	Cadmium waste and scrap
ex 810810	Titanium waste and scrap
ex 810910	Zirconium waste and scrap
ex 811000	Antimony waste and scrap
ex 811100	Manganese waste and scrap
ex 811211	Beryllium waste and scrap
ex 811220	Chromium waste and scrap
ex 811230	Germanium waste and scrap
ex 811240	Vanadium waste and scrap
ex 811291	Wastes and scrap of
	- Hafnium
	- Indium
	- Niobium
	- Rhenium
	- Gallium
	- Thallium
ex 280530	Thorium and rare earths waste and scrap
ex 280490	Selenium waste and scrap
ex 280450	Tellurium waste and scrap

B. *OTHER METAL BEARING WASTES ARISING FROM MELTING, SMELTING AND REFINING OF METALS*

262011	Hard zinc spelter

Zinc containing drosses:

- Galvanizing stab zinc top dross (> 90% Zn)

- Galvanizing slab zinc bottom dross (> 92% Zn)

- Zinc die cast dross (> 85% Zn)

- Hot dip galvanizers slab zinc dross (batch) (> 92% Zn)

- Zinc skimmings

Aluminium skimmings

ex 262090 Slags from precious metals and copper processing for further refining

C. *WASTES FROM MINING OPERATIONS: THESE WASTES TO BE IN NON-DISPERSIBLE FORM*

ex 250490 Natural graphite waste

ex 251400 Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise

252530 Mica waste

ex 252921 Feldspar; leucite; nepheline and nepheline syenite; fluorspar - containing by weight 97% or less of calcium fluoride

ex 280461 Silica wastes in solid form excluding those used in foundry

ex 280469 operations

D. *SOLID PLASTIC WASTES:*

Including, but not limited to:

3915 Waste, parings and scrap of plastics

391510 - of polymers of ethylene

391520 - of polymers of styrene

391530 - of polymers of vinyl chloride

391590 polymerized or co-polymerized

- polypropylene

- polyethylene terephthalate

- acrylonitrile copolymer

- butadiene copolymer

- styrene copolymer

- polyamides

- polybutylene terephthalates

- polycarbonates

- polyphenylene sulphides,

- acrylic polymers

- paraffins (C1O-C13)

- polyurethane (not containing chlorofluorocarbons)

- polysiloxalanes (silicones)

- polymethyl methacrylate

- polyvinyl alcohol

- polyvinyl butyral

- polyvinyl acetate

- fluorinated polytetrafluoroethylene (Teflon, PTFE)

391590 resins or condensation products of

- urea formaldehyde resins

- phenol formaldehyde resins

- melamine formaldehyde resins

- epoxy resins

- alkyd resins

- polyamides

E. *PAPER, PAPERBOARD AND PAPER PRODUCT WASTES:*

470700 Waste and scrap of paper or paperboard:

470710 - of unbleached kraft paper or paperboard or of corrugated paper or paperboard

470720 - of other paper or paperboard, made mainly of bleached chemical pulp, not colored in the mass

470730 - of paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)

470790 - other, including but not limited to:

1) laminated paperboard

2) unsorted waste and scrap

F. *GLASS WASTE IN NON-DISPERSIBLE FORM*

ex 700100 Cutlet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses

Fibre glass wastes

G. *CERAMIC WASTES IN NON-DISPERSIBLE FORM*

ex 690000	Wastes of ceramic which have been fired after shaping, including ceramic vessels
ex 811300	Cermets waste and scrap
	Ceramic based fibres not otherwise specified

H. *TEXTILE WASTES:*

5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
500310	- not carded or combed
500390	- other
5103	Waste of wool or of fine or coarse animal hair, including yam waste but excluding garnetted stock
510310	- noils of wool or of fine animal hair
510320	- other waste of wool or of fine animal hair
510330	- waste of coarse animal hair
5202	Cotton waste (including yarn waste and garnetted stock)
520210	- yarn Waste (including thread waste)
520291	- garnetted stock
520299	- other
530130	Flax tow and waste
ex 530290	Tow and waste (including yarn waste and garnetted stock) of true hemp (Cannabis sativa L.)
ex 530390	Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
ex 530490	Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave
ex 530519	Tow, noils and waste (including yarn waste and garnetted stock) of coconut
ex 530529	Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or Musa textilis Nee)
ex 530599	Tow, noils and waste (including yarn waste and gametted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
5505	Waste (including noils, yarn waste and garnetted stock) of man-made fibres
550510	- of synthetic fibres
550520	- of artificial fibres
630900	Worn clothing and other worn textile articles
6310	Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials

631010 - sorted

631090 - other

I. *RUBBER WASTES:*

400400 Waste, parings and scrap of rubber (other than hard rubber) and granules obtained therefrom

401220 Used pneumatic tyres

ex 401700 Waste and scrap of hard rubber (for example, ebonite)

J. *UNTREATED CORK AND WOOD WASTES:*

440130 Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms

450190 Cork waste; crushed, granulated or ground cork

K. *WASTES ARISING FROM AGRO-FOOD INDUSTRIES*

230100 Dried, sterilized and stabilized flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption but fit for animal feed or other purposes; greaves

230200 Bran, sharps and other residues, whether or not in the form of pellets derived from the shifting, milling or other working of cereals or of leguminous plants

230300 Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets

230400 Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil, used for animal feed

230500 Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of ground-nut (peanut) oil, used for animal feed

230600 Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable oil, used for animal feed

ex 230700 Wine lees

ex 230800 Dried and sterilized vegetable waste, residues and byproducts whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included

152200 Degras; residues resulting from the treatement of fatty substances or animal or vegetable waxes

180200 Cocoa shells, husks, skins and other cocoa waste

L. *WASTES ARISING PROM TANNING AND FELLMONGERY OPERATIONS AND LEATHER USE*

050200 Waste of pigs', hogs' or boars' bristles and hair or of badger hair and other brush making hair

050300 Horsehair waste, whether or not put up as a layer with or without supporting material

050590 Waste of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation

050690	Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
411000	Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges

M. *OTHER WASTES*

890800	Vessels and other floating structures for breaking up, properly emptied of any cargo which may have been classified as a dangerous substance or waste
	Motor vehicle wrecks, drained of liquids
050100	Waste of human hair
ex 051191	Fish waste
	Anode butts of petroleum coke and/or bitumen
	Flue gas desulphurisation (FGD) gypsum
	Waste gypsum wallboard or plasterboard arising from the demolition of buildings
ex 2621	Coal fired power station fly ash, bottom ash and slag tap.*
	Waste straw
	Broken concrete
	Spent catalysts:
	- fluid catalytic cracking (FCC) catalysts
	- precious metal bearing catalysts
	- transition metal catalysts
	Deactivated fungus mycelium from penicillin production to be used as animal feed
261800	Granulated slag arising from the manufacture of iron and steel
ex 261900	Slag arising from the manufacture of iron or steel*
310320	Basic slag arising from the manufacture of iron or steel for phosphate fertilizer and other use
ex 262100	Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
ex 262100	Neutralized red mud from alumina production
ex 262100	Spent activated carbon
	Sulphur in solid form
ex 283650	Limestone from the production of calcium cyanamide (having a pH less than 9)
	Sodium, calcium, potassium chlorides

* This entry is subject to certain specifications, these to be reviewed by the Review Mechanism.
* This entry covers the use of such slags as a source of titanium dioxide and vanadium.

	Waste photographic film base and waste photographic film not containing silver
	Single use cameras without batteries
ex 281810	Carborundum

Appendix 4
AMBER LIST OF WASTES*

Regardless of whether or not wastes are included on this list, the may not be moved as Amber Tier wastes if they are contaminated by other materials to an extent which (a) increases the risks associated with the waste sufficiently to render it appropriate for inclusion in the red list, when taking into account the criteria in Annex 2, or (b) prevents the recovery of the waste in an environmentally sound manner.

ex 261900	Dross, scalings and other wastes from the manufacture of iron and steel **
262019	Zinc ash and residues **
262020	Lead ash and residues **
262030	Copper ash and residues **
262040	Aluminium ash and residues **
262050	Vanadium ash and residues **
262090	Ash and residues ** containing metals or metal compounds not specified otherwise
	Residues from alumina production not otherwise specified
262100	Other ash and residues, not otherwise specified
	Residues arising from the combustion of municipal wastes
271390	Waste from the production/processing of petroleum coke and bitumen, excluding anode butts
	Lead-acid batteries, whole or crushed
	Waste oils unfit for their originally intended use
	Waste oils/water, hydrocarbons/water mixtures, emulsions
	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
	Wastes from production, formulation and use of resins, latex, plasticizers, glues and adhesives
	Wastes from production, formulation and use of reprographic and photographic chemicals and processing materials not otherwise specified
	Single use cameras with batteries
	Wastes from non-cyanide based systems which arise from surface treatment of metals and plastics
	Asphalt cement wastes
	Phenols, phenol compounds including chlorophenol in the form of liquids or sludges
	Treated cork and wood wastes
	Used batteries or accumulators, whole or crushed, other than leadacid batteries, and waste and scrap arising from the production of batteries and accumulators, not otherwise specified

* Whenever possible, the Harmonized Commodity Description and Coding System, established by the Brussels Convention of 14th June 1983 under the auspices of the Customs Co-operation Council (hereinafter Harmonized Customs Code) is listed opposite an entry. This code may apply to both wastes and products. This Decision does not include items which are not wastes. Therefore, the code - used by customs officials in order to facilitate their procedures as well as by others, is only provided here to help in identifying wastes that are listed and subject to this Decision. However, corresponding official explanatory notes as issued by the Customs Co-operation Council should be used as interpretative guidance to identify wastes covered by generic headings.

The indicative "ex" identifies a specific item contained within the Harmonized Customs Code heading.

** This listing includes ash, residue, slag, dross, skimming, scaling, dust, sludge and cake, unless a material is expressly listed elsewhere.

ex 391590	Nitrocellulose
ex 700100	Glass from cathode-ray tubes and other activated glasses
ex 411000	Leather dust, ash, sludges and flours
ex 252921	Calcium fluoride sludge
	Other inorganic fluorine compounds in the form of liquids or sludges
	Zinc slags containing up to 18 weight percent zinc
	Galvanic sludges
	Liquors from the pickling of metals
	Sands used in foundry operations
	Thallium compounds
	Polychlorinated naphthalenes
	Ethers
	Precious metal bearing residues in solid form which contain traces of inorganic cyanides
	Hydrogen peroxide solutions
	Triethylamine catalyst for setting foundry sands
ex 280480	Arsenic waste and residue
ex 290540	Mercury waste and residue
	Precious metal ash, sludge, dust and other residues such as:
	- ash from incineration of printed circuit boards
	- film ash
	Waste catalysts not on the green list
	Leaching residues from zinc processing, dusts and sludges such as jarosite, hematite, goethite, etc.
	Waste hydrates of aluminum
	Waste alumina
	Wastes that contain, consist of or are contaminated with any of the following:
	- inorganic cyanides, excepting precious metal-bearing residues in solid form containing traces of inorganic cyanides
	- organic cyanides
	Wastes of an explosible nature, when not subject to specific other legislation
	Wastes from the manufacture, formulation and use of wood preserving chemicals
	Leaded petrol (gasoline) sludges
	Used blasting grit
	Chlorofluorocarbons

Halons

Fluff – light fraction from automobile shredding

Thermal (heat transfer) fluids

Hydraulic fluids

Brake fluids

Antifreeze fluids

lon exchange resins

Wastes on the Amber List which will be re-examined as a priority matter by the Review Mechanism

Organic phosphorous compounds

Non-halogenated solvents

Halogenated solvents

Halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations

Liquid pig manure; feces

Sewage sludge

Household wastes *

Wastes from the production, formulation and use of biocides and phytopharmaceuticals

Wastes from the production and preparation of pharmaceutical products

Acidic solutions

Basic solutions

Surface active agents (surfactants)

Inorganic halide compounds, not otherwise specified

Wastes from industrial pollution control devices for cleaning of industrial off-gases, not otherwise specified

Gypsum arising from chemical industry processes

* In the Basel Convention household wastes -- defined as an "other waste" -- are controlled when they are subject to transfrontier movements. Therefore under this Decision all household wastes (and *not* just those which exhibit a hazardous characteristic) will be subject to the procedures in Section IV (Amber Tier). Until exporting countries have the legal authority to control transfrontier movements of household wastes, the provisions in Section II(4) will be applied.

Appendix 5
RED LIST OF WASTES

"Containing" or "contamined with", when used in this list, mean that the substance referred to is present to an extent which (a) renders the waste hazardous when taking into account the criteria in Annex 2, or (b) renders it not suitable for submission to a recovery operation.

Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB) and/or polychlorinated terphenyl (PCT) and/or polybrominated biphenyl (PBB), including any other polybrominated analogues of these compounds, at a concentration level of 50mg/kg or more

Wastes that contain, consist of or are contaminated with any of the following:

- any congenor of polychlorinated dibenzo-furan

- any congenor of polychlorinated dibenzo-dioxin

Asbestos (dusts and fibres)

Ceramic based fibres similar to those of asbestos

Leaded anti-knock compound sludges

Wastes on the Red List which will be re-examined as a priority matter by the Review Mechanism

Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolitic treatment

Peroxides other than hydrogen peroxide

Annex 2
CRITERIA

A) *Properties*

1) Does the waste normally exhibit any of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90(Final)? Furthermore, it is useful to know if the waste is legally defined as or considered to be a hazardous waste in one or more Member countries.

2) Is the waste typically contaminated?

3) What is the physical state of the waste'?

4) What is the degree of difficulty of cleanup in the case of accidental spillage or mismanagement?

5) What is the economic value of the waste, bearing in mind historical price fluctuations?

B) *Management*

6) Is there technological capability to recover the waste?

7) Is there a history of adverse environmental incidents arising from transfrontier movements of the waste or associated recovery operations?

8) Is the waste routinely traded through established channels and is that evidenced by commercial classification?

9) Is the waste usually moved internationally under the terms of a valid contract or chain of contracts?

10) What is the extent of reuse and recovery of the waste and how is any portion separated from the waste but not subject to recovery managed?

11) What are the overall environmental benefits arising from the recovery operations?

Organization of Economic Cooperation and Development (OECD) Decision of the Council Amending the Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations of 30 March 1992 with Respect to the Green, Amber and Red Lists of Wastes, Paris, 1998

Done at Paris 23 December 1998

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THE COUNCIL,

Having regard to article 5 a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Decision of the Council of 30 March 1992 concerning the Control of Transfrontier Movements of Wastes destined for Recovery Operations [C(92)39/FINAL], as amended on 23 July 1993 [C(93)74/FINAL), on 28-29 July 1994 [C(94)153/FINAL and C(94)154/FINAL], on 21 September 1995 [C(95)155/FINAL] and on 10 December 1996 [C(96)231/FINAL] which, inter alia, instructs the Environment Policy Committee "in co-operation with other relevant OECD bodies, in particular the Trade Committee, to review periodically the control system and the Lists of wastes set out in Annex 1, taking into account the criteria listed in Annex 2, and to make any proposal it deems necessary for revisions of Annex 1";

Considering that the review conducted in 1997 and 1998 indicated the need to further amend the green, amber and red Lists of wastes set out in Council Decision C(92)39/FINAL in order to take account of technical progress and experience gained by Member countries with the Control System;

Considering that the object of this amendment is to modify the Green List entries: GB 030, GE 010 and GO 040, delete the Green List entries: GA 040 to GA 110, add new Green List entries: GA 430, GC 090 to GC 170, GG 160, GJ 140 and GM 140, modify the Amber List entry: AC 020 and the Red List entry: RA 020;

Noting that no other revision of the control system set out in Decision C(92)39/FINAL was deemed necessary at this stage;

On the proposal of the Environment Policy Committee;

I. DECIDES that Appendix 3 ("Green List of Wastes"), Appendix 4 ("Amber List of Wastes") and Appendix 5 ("Red List of Wastes") set out in Annex I of Decision C(92)39/FINAL shall be replaced by those attached to this Decision.

II. INVITES Member countries to inform the OECD of measures taken in pursuance to this Decision.

Appendix 3

GREEN LIST OF WASTES[1]

(revised April 1998)

Regardless of whether or not wastes are included on this list, they may not be moved as Green Tier wastes if they are contaminated by other materials to an extent which (a) increases the risks associated with the waste sufficiently to render it appropriate for inclusion in the amber or red lists, when taking into account the criteria in Annex 2, or (b) prevents the recovery of the waste in an environmentally sound manner.

GA. METAL AND METAL-ALLOY WASTES IN METALLIC, NON DISPERSIBLE FORM[2]

The following waste and scrap of precious metals and their alloys :

GA010	ex	711210	-	of gold
GA020	ex	711220	-	of platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)
GA030	ex	711290	-	of other precious metal, e.g., silver

N.B. Mercury is specifically excluded as a contaminant of these metals or their alloys or amalgams.

The following waste and scrap of non-ferrous metals and their alloys:

GA120		740400	Copper waste and scrap
GA130		750300	Nickel waste and scrap
GA140		760200	Aluminum waste and scrap
GA150		780200	Lead waste and scrap
GA160		790200	Zinc waste and scrap
GA170		800200	Tin waste and scrap
GA180	ex	810191	Tungsten waste and scrap
GA190	ex	810291	Molybdenum waste and scrap
GA200	ex	810310	Tantalum waste and scrap
GA210		810420	Magnesium waste and scrap (excluding those listed in AA190)
GA220	ex	810510	Cobalt waste and scrap
GA230	ex	810600	Bismuth waste and scrap
GA240	ex	810710	Cadmium waste and scrap

[1] Whenever possible, the code number of the Harmonized Commodity Description and Coding System, established by the Brussels Convention of 14th June 1983 under the auspices of the Customs Co-operation Council (Harmonized System Code) is listed opposite an entry. This code may apply to both wastes and products. This Decision does not include items which are not wastes. Therefore, the code - used by customs officials in order to facilitate their procedures as well as by others - is only provided here to help in identifying wastes that are listed and subject to this Decision. However, corresponding official Explanatory Notes as issued by the Customs Co-operation Council should be used as interpretative guidance to identify wastes covered by generic headings. The indicative "ex" identifies a specific item contained within a heading of the Harmonized System Code.

The code in bold in the first column is the OECD code: it consists of two letters (one for the list: Green, Amber or Red and one for the category of waste: A.B.C...) followed by a number.

[2] "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

GA250	ex	810810	Titanium waste and scrap
GA260	ex	810910	Zirconium waste and scrap
GA270	ex	811000	Antimony waste and scrap
GA280	ex	811100	Manganese waste and scrap
GA290	ex	811211	Beryllium waste and scrap
GA300	ex	811220	Chromium waste and scrap
GA310	ex	811230	Germanium waste and scrap
GA320	ex	811240	Vanadium waste and scrap
	ex	811291	Wastes and scrap of
GA330			- Hafnium
GA340			- Indium
GA350			- Niobium
GA360			- Rhenium
GA370			- Gallium
GA400	ex	280490	Selenium waste and scrap
GA410	ex	280450	Tellurium waste and scrap
GA420	ex	280530	Rare earths waste and scrap
GA430		7204	Iron or steel scrap

GB. METAL BEARING WASTES ARISING FROM MELTING, SMELTING AND REFINING OF METALS

GB010		262011	Hard zinc spelter
GB020			Zinc containing drosses:
GB021			- Galvanizing slab zinc top dross (> 90% Zn)
GB022			- Galvanizing slab zinc bottom dross (> 92% Zn)
GB023			- Zinc die casting dross (> 85% Zn)
GB024			- Hot dip galvanizers slab zinc dross (batch) (> 92% Zn)
GB025			- Zinc skimmings
GB030			Aluminum skimmings (excluding those that are flammable or emit, upon contact with water, flammable gases in dangerous quantities)
GB040	ex	262090	Slags from precious metals and copper processing for further refining
GB050	ex	262090	Tantalum bearing tin slags with less than 0.5 % tin

GC. OTHER WASTES CONTAINING METALS

GC010			Electrical assemblies consisting only of metals or alloys
GC020			Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and

reclaimed electronic components suitable for base and precious metal recovery

GC030 ex 890800 Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste

GC040 Motor vehicle wrecks, drained of liquids

Spent catalysts excluding liquids used as catalysts:

GC050 Spent Fluid Catalytic Cracking (FCC) Catalysts (eg: aluminium oxide, zeolites)

GC060 Spent metal bearing catalysts containing any of:

- Precious metals:

Gold	Silver

- Platinum-group metals:

Ruthenium	Rhodium
Palladium	Osmium
Iridium	Platinum

- Transition metals:

Scandium	Titanium
Vanadium	Chromium
Manganese	Iron
Cobalt	Nickel
Copper	Zinc
Yttrium	Zirconium
Niobium	Molybdenum
Hafnium	Tantalum
Tungsten	Rhenium

- Lanthanides (rare earth metals):

Lanthanum	Cerium
Praesodinium	Neodymium
Samarium	Europium
Gadolinium	Terbium
Dysprosium	Holmium
Erbium	Thulium
Ytterbium	Lutetium

GC070 ex 261900 Slags arising from the manufacture of iron and carbon steel (including low alloy steel) excluding those slags which have been specifically produced to meet both national and relevant international requirements and standards[3]

GC080 ex 261900 Mill scale (ferrous metal)

The following metal and metal alloy wastes in metallic dispersible form:

GC090 Molybdenum

GC100 Tungsten

GC110 Tantalum

GC120 Titanium

[3] This entry covers the use of such slags as a source of titanium dioxide and vanadium.

GC130			Niobium
GC140			Rhenium
GC150			Gold
GC160			Platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)
GC170			Other precious metals, e.g. silver

N.B. Mercury is specifically excluded as a contaminant of these metals and their alloys or amalgams.

GD. WASTES FROM MINING OPERATIONS: THESE WASTES TO BE IN NON-DISPERSIBLE FORM

GD010	ex	250490	Natural graphite waste
GD020	ex	251400	Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise
GD030		252530	Mica waste
GD040	ex	252930	Leucite, nepheline and nepheline syenite waste
GD050	ex	252910	Felspar waste
GD060	ex ex	252921 252922	Fluospar waste
GD070	ex	281122	Silica wastes in solid form excluding those used in foundry operations

GE. GLASS WASTE IN NON-DISPERSIBLE FORM

GE010	ex	700100	Cullet or other waste and scrap of glass except for glass from cathode-ray tubes and other activated (with coatings) glasses
GE020			Glass fibre wastes

GF. CERAMIC WASTES IN NON-DISPERSIBLE FORM

GF010			Ceramic wastes which have been fired after shaping, including ceramic vessels (before and/or after use)
GF020	ex	811300	Cermet wastes and scrap (metal ceramic composites)
GF030			Ceramic based fibres not elsewhere specified or included

GG. OTHER WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS

GG010			Partially refined calcium sulphate produced from flue gas desulphurisation (FGD)
GG020			Waste gypsum wallboard or plasterboard arising from the demolition of buildings
GG030	ex	2621	Bottom ash and slag tap from coal fired power plants
GG040	ex	2621	Coal fired power plants fly ash
GG050			Anode butts of petroleum coke and/or bitumen

GG060	ex	2803	Spent activated carbon, resulting from the treatment of potable water and processes of the food industry and vitamin production
GG080	ex	262100	Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
GG090			Sulphur in solid form
GG100			Limestone from the production of calcium cyanamide (having a pH less than 9)
GG110	ex	262100	Neutralized red mud from alumina production
GG120			Sodium, potassium, calcium chlorides
GG130			Carborundum (silicon carbide)
GG140			Broken concrete
GG150	ex	262090	Lithium-Tantalum and Lithium-Niobium containing glass scraps
GG160			Bituminous materials (asphalt waste) from road construction and maintenance, not containing tar

GH. SOLID PLASTIC WASTES

Including, but not limited to:

GH010		3915	Waste, parings and scrap of plastics of:
GH011	ex	391510	- polymers of ethylene
GH012	ex	391520	- polymers of styrene
GH013	ex	391530	- polymers of vinyl chloride
GH014	ex	391590	- polymers or co-polymers e.g.:
			• polypropylene
			• polyethylene terephthalate
			• acrylonitrile copolymer
			• butadiene copolymer
			• styrene copolymer
			• polyamides
			• polybutylene terephthalate
			• polycarbonates
			• polyphenylene sulphides
			• acrylic polymers
			• paraffins (C10-C13)[4]
			• polyurethane (not containing chlorofluorocarbons)
			• polysiloxalanes (silicones)
			• polymethyl methacrylate
			• polyvinyl alcohol
			• polyvinyl butyral
			• polyvinyl acetate
			• polymers of fluorinated ethylene (Teflon, PTFE)
GH015	ex	391590	- resins or condensation products e.g.:
			• urea formaldehyde resins
			• phenol formaldehyde resins
			• melamine formaldehyde resins
			• epoxy resins

[4] These cannot be polymerised and are used as plasticisers.

- alkyd resins
- polyamides

GI. PAPER, PAPERBOARD AND PAPER PRODUCT WASTES

GI010		4707	Waste and scrap of paper or paperboard:
G1011		470710	- of unbleached kraft paper or paperboard or of corrugated paper or paperboard
GI012		470720	- of other paper or paperboard, made mainly of bleached chemical pulp, not colored in the mass
GI013		470730	- of paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)
G1014		470790	- other, including but not limited to: 1) laminated paperboard 2) unsorted waste and scrap

GJ. TEXTILE WASTES

GJ010		5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
GJ011		500310	- not carded or combed
GJ012		500390	- other
GJ020		5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
GJ021		510310	- noils of wool or of fine animal hair
GJ022		510320	- other waste of wool or of fine animal hair
GJ023		510330	- waste of coarse animal hair
GJ030		5202	Cotton waste (including yarn waste and garnetted stock)
GJ031		520210	- yarn waste (including thread waste)
GJ032		520291	- garnetted stock
GJ033		520299	- other
GJ040		530130	Flax tow and waste
GJ050	ex	530290	Tow and waste (including yarn waste and garnetted stock) of true hemp (Cannabis sativa L.)
GJ060	ex	530390	Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
GJ070	ex	530490	Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave
GJ080	ex	530519	Tow, noils and waste (including yarn waste and garnetted stock) of coconut
GJ090	ex	530529	Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or Musa textilis Nee)
GJ100	ex	530599	Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
GJ110		5505	Waste (including noils, yarn waste and garnetted stock) of man-madefibres
GJ111		550510	- of synthetic fibres
GJ112		550520	- of artificial fibres
GJ120		630900	Worn clothing and other worn textile articles

GJ130	ex	6310	Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials
GJ131	ex	631010	- sorted
GJ132	ex	631090	- other
GJ140	ex	6310	Waste textile floor coverings, carpets
	GK.	**RUBBER WASTES**	
GK010		400400	Waste, parings and scrap of rubber (other than hard rubber) and granules obtained therefrom
GK020		401220	Used pneumatic tyres
GK030	ex	401700	Waste and scrap of hard rubber (for example, ebonite)
	GL.	**UNTREATED CORK AND WOOD WASTES**	
GL010	ex	440130	Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
GL020		450190	Cork waste; crushed, granulated or ground cork
	GM.	**WASTES ARISING FROM AGRO-FOOD INDUSTRIES**	
GM070	ex	2307	Wine lees
GM080	ex	2308	Dried and sterilized vegetable waste, residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
GM090		152200	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes
GM100		050690	Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
GM110	ex	051191	Fish waste
GM120		180200	Cocoa shells, husks, skins and other cocoa waste
GM130			Wastes from the agro-food industry excluding by-products which meet nationl and international requirements and standards for human or animal consumption
GM140	ex	1500	Waste edible fats and oils of animal or vegetable origin (e.g. frying oils)
	GN.	**WASTES ARISING FROM TANNING AND FELLMONGERY OPERATIONS AND LEATHER USE**	
GN010	ex	050200	Waste of pigs', hogs' or boars' bristles and hair or of badger hair and other brush making hair
GN020	ex	050300	Horsehair waste, whether or not put up as a layer with or without supporting material
GN030	ex	050590	Waste of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation
GN040	ex	411000	Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges

	GO.		**OTHER WASTES CONTAINING PRINCIPALLY ORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS**
GO010	ex	050100	Waste of human hair
GO020			Waste straw
GO030			Deactivated fungus mycelium from penicillin production to be used as animal feed
GO040			Waste photographic film and paper (including base and photo-sensitive coating), whether or not containing silver and not containing silver in free ionic form
GO050			Single use cameras without batteries

Appendix 4

AMBER LIST OF WASTES[1]

(revised April 1998)

Regardless of whether or not wastes are included on this list, they may not be moved as Amber Tier wastes if they are contaminated by other materials to an extent which (a) increases the risks associated with the waste sufficiently to render it appropriate for inclusion in the red list, when taking into account the criteria in Annex 2, or (b) prevents the recovery of the waste in an environmentally sound manner.

AA. METAL BEARING WASTES

AA010	ex	261900	Dross, scalings and other wastes from the manufacture of iron and steel[2]
AA020	ex	262019	Zinc ashes and residues[2]
AA030		262020	Lead ashes and residues[2]
AA040	ex	262030	Copper ashes and residues[2]
AA050	ex	262040	Aluminum ashes and residues[2]
AA060	ex	262050	Vanadium ashes and residues[2]
AA070		262090	Ashes and residues[2] containing metals or metal compounds not elsewhere specified or included
AA080	ex	811291	Thallium waste, scrap and residues
AA090	ex	280480	Arsenic waste and residues[2]
AA100	ex	280540	Mercury waste and residues[2]
AA110			Residues from alumina production not elsewhere specified or included
AA120			Galvanic sludges
AA130			Liquors from the pickling of metals
AA140			Leaching residues from zinc processing, dusts and sludges such as jarosite, hematite, goethite, etc.
AA150			Precious metal bearing residues in solid form which contain traces of inorganic cyanides
AA160			Precious metal ash, sludge, dust and other residues such as:
AA161			- ash from incineration of printed circuit boards
AA162			- photographic film ash
AA170			Lead-acid batteries, whole or crushed

[1] Whenever possible, the code number of the Harmonized Commodity Description and Coding System, established by the Brussels Convention of 14th June 1983 under the auspices of the Customs Co-operation Council (Harmonized System Code) is listed opposite an entry. This code may apply to both wastes and products. This Decision does not include items which are not wastes. Therefore, the code - used by customs officials in order to facilitate their procedures as well as by others - is only provided here to help in identifying wastes that are listed and subject to this Decision. However, corresponding official Explanatory Notes as issued by the Customs Co-operation Council should be used as interpretative guidance to identify wastes covered by generic headings. The indicative "ex" identifies a specific item contained within a heading of the Harmonized System Code.

The code in bold in the first column is the OECD code: it consists of two letters (one for the list: Green, Amber or Red and one for the category of waste: A,B,C..) followed by a number.

[2] This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

AA180			Used batteries or accumulators, whole or crushed, other than lead-acid batteries, and waste and scrap arising from the production of batteries and accumulators, not elsewhere specified or included
AA190		810420	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities.
	AB.		**WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS**
AB010		262100	Slag, ash and residues[2], not elsewhere specified or included
AB020			Residues arising from the combustion of municipal/household wastes
AB030			Wastes from non-cyanide based systems which arise from surface treatment of metals
AB040	ex	700100	Glass waste from cathode-ray tubes and other activated glasses
AB050	ex	252921	Calcium fluoride sludge
AB060			Other inorganic fluorine compounds in the form of liquids or sludges
AB070			Sands used in foundry operations
AB080			Spent catalysts not on the Green List
AB090			Waste hydrates of aluminum
AB100			Waste alumina
AB110			Basic solutions
AB120			Inorganic halide compounds, not elsewhere specified or included
AB130			Used blasting grit
AB140			Gypsum arising from chemical industry processes
AB150			Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)
	AC.		**WASTES CONTAINING PRINCIPALLY ORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS**
AC010	ex	271390	Waste from the production/processing of petroleum coke and bitumen,excluding anode butts
AC020			Bituminous materials (asphalt waste) not elsewhere specified or included
AC030			Waste oils unfit for their originally intended use
AC040			Leaded petrol (gasoline) sludges
AC050			Thermal (heat transfer) fluids
AC060			Hydraulic fluids
AC070			Brake fluids
AC080			Antifreeze fluids
AC090			Wastes from production, formulation and use of resins, latex, plasticisers, glues and

			adhesives
AC100	ex	391590	Nitrocellulose
AC110			Phenols, phenol compounds including chlorophenol in the form of liquids or sludges
AC120			Polychlorinated naphthalenes
AC130			Ethers
AC140			Triethylamine catalysts for setting foundry sands
AC150			Chlorofluorocarbons
AC160			Halons
AC170			Treated cork and wood wastes
AC180	ex	411000	Leather dust, ash, sludges and flours
AC190			Fluff - light fraction from automobile shredding
AC200			Organic phosphorous compounds
AC210			Non-halogenated solvents
AC220			Halogenated solvents
AC230			Halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations
AC240			Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethanes, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)
AC250			Surface active agents (surfactants)
AC260			Liquid pig manure; faeces
AC270			Sewage sludge

AD. <u>WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS</u>

AD010	Wastes from the production and preparation of pharmaceutical products
AD020	Wastes from the production, formulation and use of biocides and phytopharmaceuticals
AD030	Wastes from the manufacture, formulation and use of wood preserving chemicals
AD040	Wastes that contain, consist of or are contaminated with any of the following: - inorganic cyanides, excepting precious metal-bearing residues in solid form containing traces of inorganic cyanides
AD050	- organic cyanides
AD060	Waste oils/water, hydrocarbons/water mixtures, emulsions
AD070	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
AD080	Wastes of an explosive nature, when not subject to specific other legislation

AD090			Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
AD100			Wastes from non-cyanide based systems which arise from surface treatment of plastics
AD110			Acidic solutions
AD120			Ion exchange resins
AD130			Single use cameras with batteries
AD140			Wastes from industrial pollution control devices for cleaning of industrial off-gases, not elsewhere specified or included
AD150			Naturally occuring organic material used as a filter medium (such as bio-filters)
AD160			Municipal/household wastes[3]
AD170	ex	2803	Spent activated carbon having hazardous characteristics and resulting from its use in the inorganic chemical, organic chemical and pharmaceutical industries, waste water treatment, gas/air cleaning processes and similar applications.

[3] In the Basel Convention household wastes -- defined as an "other waste"-- are controlled when they are subject to transfrontier movements. Therefore under this Decision all household wastes (and not just those which exhibit a hazardous characteristic) will be subject to the procedures in Section IV (Amber Tier). Until exporting countries have the legal authority to control transfrontier movements of household wastes, the provisions in Section II(4) will be applied.

Appendix 5

RED LIST OF WASTES

(revised April 1998)

"Containing" or "contamined with", when used in this list, mean that the substance referred to is present to an extent which (a) renders the waste hazardous when taking into account the criteria in Annex 2, or (b) renders it not suitable for submission to a recovery operation.

RA. WASTES CONTAINING PRINCIPALLLY ORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS

RA010 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB) and/or polychlorinated terphenyl (PCT) and/or polybrominated biphenyl (PBB), including any other polybrominated analogues of these compounds, at a concentration level of 50mg/kg or more

RA020 Waste tarry residues (excluding those listed in AC020) arising from refining, distillation and any pyrolitic treatment of organic materials

RB. WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS

RB010 Asbestos (dusts and fibres)

RB020 Ceramic based fibres of physico-chemical characteristics similar to those of asbestos

RC. WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS

Wastes that contain, consist of or are contaminated with any of the following :

RC010 - any congenor of polychlorinated dibenzo-furan

RC020 - any congenor of polychlorinated dibenzo-dioxin

RC030 Leaded anti-knock compound sludges

RC040 Peroxides other than hydrogen peroxide

Amendments to Annex II (Designation of the Antarctic Area as a Special Area and Lists of Liquid Substances) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, London, 1992

Done at London 30 October 1992

Entered into force 1 July 1994

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the United Nations

ANNEX 8

RESOLUTION MEPC.57(33)
adopted on 30 October 1992

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978
RELATING TO THE INTERNATIONAL CONVENTION FOR
THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(Designation of the Antarctic Area as a Special Area
and Lists of Liquid Substances in Annex II)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by International Conventions for the Prevention and Control of Marine Pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and Article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

NOTING FURTHER resolution MEPC.55(33) by which the Committee adopted amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code),

HAVING CONSIDERED, at its thirty-third session, amendments to Annex II of MARPOL 73/78 and Appendices II and III thereof proposed by the Sub-Committee on Bulk Chemicals at its twenty-first session and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. ADOPTS in accordance with article 16(2)(d) of the 1973 Convention amendments to Annex II of MARPOL 73/78 and Appendices II and III thereof, the texts of these amendments are set out in the annex to the present resolution;

2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention that the amendments shall be deemed to have been accepted on the date on which the conditions for the entry into force of the amendments to the IBC Code adopted by the Committee by resolution MEPC.55(33) are met, unless prior to that date, not less than one third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with article 16(2)(g)(ii) of the 1973 Convention the amendments shall enter into force six months after their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to the Convention certified copies of the present resolution and the text of the amendments contained in the annex;

5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its annex.

ANNEX

TEXT OF AMENDMENTS TO ANNEX II OF MARPOL 73/78 AND APPENDICES II AND III

Regulation 1

Existing text of paragraph (6) is replaced by the following:

'Noxious liquid substance' means any substance referred to in Appendix II to this Annex or provisionally assessed under the provisions of regulation 3(4) as falling into category A, B, C or D.

Existing text of the last sentence of paragraph (7) is amended to read as follows:

Special areas shall be:

(a) The Baltic Sea Area, and

(b) The Black Sea Area, and

(c) The Antarctic Area.

A new paragraph (9A) is inserted reading:

(9A) The Antarctic Area means the sea area south of latitude 60° S.

Regulation 2

The following new paragraph (7) is added:

(7) (a) Where an amendment to this Annex and the International Bulk Chemical and Bulk Chemical Codes involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Administration may modify or delay for a specified period the application of such an amendment to ships constructed before the date of entry into force of that amendment, if the immediate application of such an amendment is considered unreasonable or impracticable. Such relaxation shall be determined with respect to each substance, having regard to the guidelines developed by the Organization.*

(b) The Administration allowing a relaxation of the application of an amendment under this paragraph shall submit to the Organization a report giving details of the ship or ships concerned, the cargoes carried, the trade in which each ship is engaged and the justification for the relaxation, for circulation to the Parties to the Convention for their information and appropriate action, if any.

Regulation 3

Existing text of paragraph (3) is replaced by the following:

(3) Noxious liquid substances carried in bulk which are presently categorized as category A, B, C or D and subject to the provisions of this Annex are referred to in Appendix II to this Annex.

* Reference is made to Guidelines for the application of amendments to the list of substances in Annex II of MARPOL 73/78 and the IBC Code and BCH Code with respect to pollution hazards adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC ... (33).

Regulation 4

Existing text of paragraph (1) is replaced by the following:

(1) The substances referred to in Appendix III to this Annex have been evaluated and found to fall outside category A, B, C and D, as defined in regulation 3(1) of this Annex because they are at present considered to present no harm to human health, marine resources, amenities or other legitimate uses of the sea, when discharged into the sea from tank cleaning or deballasting operation.

Existing text of paragragh (2) is replaced by the following:

(2) The discharge of bilge or ballast water or other residues or mixtures containing only substances referred to in Appendix III to this Annex shall not be subject to any requirement of this Annex.

Regulation 5

The existing text of the wording preceding paragraphs (1) and (7) is amended to read as follows:

Subject to the provisions of paragraph (14) of this regulation and of regulation 6 of this Annex,

The second sentence of the existing text of paragraph (1) is amended to read:

If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is at or below 0.1% by weight and until the tank is empty, with the exception of Phosphorus, yellow or white for which the residual concentration shall be at 0.01% by weight.

The existing text of the second sentence of paragraph (7) is amended to read as follows:

If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility which the States bordering the special area shall provide in accordance with regulation 7 of this Annex, until the concentration of the substance in the effluent to such facility is at or below 0.05% by weight and until the tank is empty, with the exception of Phosphorus, yellow or white for which the residual concentration shall be 0.005% by weight.

A new paragraph (14) is added as follows:

(14) In respect of the Antarctic area any discharge into the sea of noxious liquid substances or mixtures containing such substances shall be prohibited.

Regulation 8

The first and second sentences of the existing text of paragraph (3) is amended to read as follows:

If the tank is to be washed in accordance with subparagraph (2)(a) of this regulation, the effluent from the tank washing operation shall be discharged to a reception facility at least until the concentration of the substance in the discharge, as indicated by analyses of samples of the effluent taken by the surveyor, has fallen to the concentration specified in regulations 5(1) or 5(7), as applicable, of this Annex. When the required concentration has been achieved, remaining tank washings shall continue to be discharged to the reception facility until the tank is empty.

Regulation 14

In the second line the words "designated in Appendix II are replaced by the words "referred to in Appendix II".

Appendix II is replaced by the following:

Appendix II

LIST OF NOXIOUS SUBSTANCES CARRIED IN BULK

Noxious liquid substances carried in bulk and which are presently categorized as category A, B, C or D and subject to the provisions of this Annex, are so indicated in the pollution category column of chapters 17 or 18 of the International Bulk Chemical Code.

Appendix III is replaced by the following:

Appendix III

LIST OF OTHER LIQUID SUBSTANCES

Liquid substances carried in bulk which are identified as falling outside the category A, B, C or D and not subject to the provisions of this Annex are indicated as "III" in the pollution category column of chapters 17 or 18 of the International Bulk Chemical Code.

Amendments to Annex III (Revised Annex III) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, London, 1992

Done at London 30 October 1992

Entered into force 28 February 1994

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the United Nations

ANNEX 9

RESOLUTION MEPC.58(33)

adopted on 30 October 1992

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

(Revised Annex III)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and Article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

RECALLING ALSO that the Committee adopted resolution MEPC.35(27) on implementation of Annex III of MARPOL 73/78 by which it is stated, inter alia, that the revised provisions of Annex III can be treated as equiv

alent to the existing provisions and hence nothing in MARPOL 73/78 will prevent Parties to Annex III from giving effect to the revised provisions of Annex III without awaiting the formal entry into force of the revised provisions,

RECALLING FURTHER that the Committee decided to commence action to amend Annex III to MARPOL 73/78 in accordance with article 16 of MARPOL 73/78, immediately upon the entry into force,

NOTING ALSO that the existing provisions of Annex III of MARPOL 73/78 already came into force on 1 July 1992,

HAVING CONSIDERED, the amendments to Annex III of MARPOL 73/78, which were agreed at its twenty-sixth session, modified at its thirtieth and thirty-first sessions and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. ADOPTS in accordance with article 16(2)(d) of the 1973 Convention amendments to Annex III of MARPOL 73/78, the text of which is set out in the Annex to the present resolution;

2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 30 August 1993, unless prior to that date, not less than one-third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with article 16(2)(g)(ii) of the 1973 Convention the amendments shall enter into force on 28 February 1994 in accordance with paragraph 2 above;

5. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to Annex III the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex;

6. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to Annex III of the 1978 Protocol copies of the resolution and its Annex.

* Reference is made to the International Maritime Dangerous Goods (IMDG) Code adopted by the Organization by resolution A.716(17) as it has been or may be amended by the Maritime Safety Committee.

ANNEX

The existing text of Annex III is replaced by the following:

ANNEX III

REGULATIONS FOR THE PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES CARRIED BY SEA IN PACKAGED FORM

Regulation 1

Application

1 Unless expressly provided otherwise, the regulations of this Annex apply to all ships carrying harmful substances in packaged form.

1.1 For the purposes of this Annex, "harmful substances" are those substances which are identified as marine pollutants in the International Maritime Dangerous Goods (IMDG) Code*.

1.2 Guidelines for the identification of harmful substances in packaged form are given in the appendix to this Annex.

1.3 For the purposes of this Annex, "packaged form" is defined as the forms of containment specified for harmful substances in the IMDG Code.

2 The carriage of harmful substances is prohibited, except in accordance with the provisions of this Annex.

3 To supplement the provisions of this Annex, the Government of each Party to the Convention shall issue, or cause to be issued, detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances.

4 For the purposes of this Annex, empty packagings which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

5 The requirements of this Annex do not apply to ships' stores and equipment.

Regulation 2

Packing

Packages shall be adequate to minimize the hazard to the marine environment, having regard to their specific contents.

Regulation 3

Marking and labelling

1 Packages containing a harmful substance shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented where possible by any other means, for example, by

* Reference is made to the specific exemptions provided for in the International Maritime Dangerous Goods (IMDG) Code.

use of the relevant United Nations number.

2 The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

3 Packages containing small quantities of harmful substances may be exempted from the marking requirements.*

Regulation 4**

Documentation

1 In all documents relating to the carriage of harmful substances by sea where such substances are named. the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words "MARINE POLLUTANT".

2 The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate and in proper condition for carriage to minimize the hazard to the marine environment.

3 Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded. A copy of one of these documents shall be made available before departure to the person or organization designated by the port State authority.

4 When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex.

Regulation 5

Stowage

Harmful substances shall be properly stowed and secured so as to minimize the hazards to the marine environment without impairing the safety of the ship and persons on board.

Regulation 6

Quantity limitations

Certain harmful substances may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity, due consideration shall be given to size, construction and equipmemt of the ship, as well as the packaging and the inherent nature of the substances.

** Reference to "documents" in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI)

Regulation 7

Exceptions

1 Jettisoning of harmful substances carried in packaged form shall be prohibited, except where necessary for the purpose of securing the safety of the ship or saving life at sea.

2 Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard, provided that compliance with such measures would not impair the safety of the ship and persons on board.

Appendix

GUIDELINES FOR THE IDENTIFICATION OF HARMFUL SUBSTANCES IN PACKAGED FORM

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances:

— bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating "+" in column A*); or

— bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating "Z" in column A*); or

— liable to produce tainting of seafood (Hazard Rating "T" in column A*); or

— highly toxic to aquatic life, defined by a LC_{50}/96** hour less than 1 ppm (Hazard Rating "4" in column B*).

* Reference is made to the Composite List of Hazard Profiles, prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which is circulated annually by the Organization by means of BCH circulars to all IMO Member States.

** The concentration of a substance which will, within the specified time (generally 96 hours), kill 50% of the exposed group of test organisms. LC_{50} is often specified in mg/1 (parts per million (ppm)).

Amendments to Annexes I, II, III, and V (on port State control on operational requirements) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, London, 1994

Done at London 13 November 1994

Entered into force 3 March 1996

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the United Nations

ANNEX

ATTACHMENT TO THE FINAL ACT OF THE CONFERENCE

Attachment

RESOLUTION 1

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

(Amendments to Annexes I and II on port State control on operational requirements)

THE CONFERENCE,

RECALLING article 16 (3) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "MARPOL 73/78") concerning the procedure for amending MARPOL 73/78 by a Conference of Parties,

HAVING CONSIDERED amendments to Annexes I and II of MARPOL 73/78 proposed and circulated to the Members of the Organization and all Parties to MARPOL 73/78,

1. ADOPTS, in accordance with article 16(3) of MARPOL 73/78, amendments to Annexes I and II of MARPOL 73/78, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article 16(3)(c) of MARPOL 73/78, that the amendments shall be deemed to have been accepted on 3 September 1995 unless prior to this date one third or more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES Parties to note that, in accordance with article 16(3)(c) of MARPOL 73/78, the amendments shall enter into force on 3 March 1996 upon its acceptance in accordance with paragraph 2 above.

ANNEX

Amendments to Annexes I and II of MARPOL 73/78

1 The following new regulation 8A is inserted after the existing regulation 8 of Annex 1:

"Regulation 8A

Port State control on operational requirements*

(1) A ship when in a port or an offshore terminal of another Party is subject to inspection by officers duly authorized by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by oil.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

2 The following new regulation 15 is added to the existing regulations of Annex II:

"Regulation 15

Port State control on operational requirements*

(1) A ship when in a port of another Party is subject to inspection by officers duly authorized by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by noxious liquid substances.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

* Refer to the Procedures for the control of operational requirements related to the safety of ships and pollution prevention, adopted by the Organization by resolution A.742(18)."

RESOLUTION 2

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

(Amendments to Annex III on port State control on operational requirements)

THE CONFERENCE,

RECALLING article 16 (3) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "MARPOL 73/78") concerning the procedure for amending MARPOL 73/78 by a Conference of Parties,

HAVING CONSIDERED amendments to Amex III of MARPOL 73/78 proposed and circulated to the Members of the Organization and all Parties to MARPOL 73/78,

1. ADOPTS, in accordance with article 16(3) of MARPOL 73/78, amendments to Annex III of MARPOL 73/78, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article 16(3)(c) of MARPOL 73/78, that the amendments shall be deemed to have been accepted on 3 September 1995 unless prior to this date one third or more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES Parties to note that, in accordance with article 16(3)(c) of MARPOL 73/78, the amendments shall enter into force on 3 March 1996 upon its acceptance in accordance with paragraph 2 above.

* Refer to the Procedures for the control of operational requirements related to the safety of ships and pollution prevention, adopted by the Organization by resolution A.742(18)."

ANNEX

Amendments to Annex III of MARPOL 73/78

The following new regulation 8 is added to the existing regulations of Annex III:

"Regulation 8

Port State control on operational requirements*

(1) A ship when in a port of another Party is subject to inspection by officers duly authorized by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by harmful substances.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

RESOLUTION 3

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

(Amendments to Annex V on port State control on operational requirements)

THE CONFERENCE,

RECALLING article 16 (3) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "MARPOL 73/78") concerning the procedure for amending MARPOL 73/78 by a Conference of Parties,

HAVING CONSIDERED amendments to Annex V of MARPOL 73/78 proposed and circulated to the Members of the Organization and all Parties to MARPOL 73/78,

1. ADOPTS, in accordance with article 16(3) of MARPOL 73/78, amendments to Annex V of MARPOL 73/78, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article 16(3)(c) of MARPOL 73/78, that the amendments shall be deemed to have been accepted on 3 September 1995 unless prior to this date one third or more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES Parties to note that, in accordance with article 16(3)(c) of MARPOL 73/78, the amendments shall enter into force on 3 March 1996 upon its acceptance in accordance with paragraph 2 above.

* Refer to the Procedures for the control of operational requirements related to the safety of ships and pollution prevention, adopted by the Organization by resolution A.742(18)."

ANNEX

Amendments to Annex V of MARPOL 73/78

4 The following new regulation 8 is added to the existing regulation of Annex V:

"Regulation 8

Port State control on operational requirements*

(1) A ship when in a port of another Party is subject to inspection by officers duly authorized by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by garbage.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

* Refer to the Procedures for the control of operational requirements related to the safety of ships and pollution prevention, adopted by the Organization by resolution A.742(18)."

Amendments to Annex V (Regulation 2 and new Regulation 9 on garbage management plans) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, London, 1995

Done at London 14 September 1995

Entered into force 1 July 1997 (not for United States)

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

RESOLUTION MEPC.65(37)
(adopted on 14 September 1995)

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(Amendments to Regulation 2 and now Regulation 9 of Annex V)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

NOTING ALSO that there is a need to provide for a more effective implementation of Annex V of MARPOL 73/78,

REQUIRING a more systematic approach to the enforcement and control of the requirements of Annex V, MARPOL 73/78,

HAVING CONSIDERED the amendments to Annex V of MARPOL 73/78, agreed at its thirty-sixth session and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. ADOPTS, in accordance with article 16(2)(b) of the 1973 Convention, amendments to Annex V of MARPOL 73/78, the text of which is set out in the annex to the present resolution;

2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 January 1997, unless prior to the date, not less than one-third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with article 16(2)(g)(ii) of the 1973 Convention the amendments shall enter into force on 1 July 1997 in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to Annex V of the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the annex;

5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to Annex V of the 1978 Protocol copies of the resolution and its annex.

ANNEX

TEXTS OF AMENDMENTS TO ANNEX V OF MARPOL 73/78

Regulation 2

Application

The existing text of regulation 2 is replaced by the following:

"Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships."

New regulation 9 is added as follows:

Regulation 9

Placards, garbage management plans and garbage record-keeping

(1) (a) Every ship of 12 metres or more in length overall shall display placards which notify the crew and passengers of the disposal requirements of regulations 3 and 5 of this Annex, as applicable.

(b) The placards shall be written in the official language of the State whose flag the ship is entitled to fly and, for ships engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention, in English or French.

(2) Every ship of 400 tons gross tonnage and above, and every ship which is certified to carry 15 persons or more, shall carry a garbage management plan which the crew shall follow. This plan shall provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board. It shall also designate the person in charge of carrying out the plan. Such a plan shall be in accordance with the guidelines developed by the Organization and written in the working language of the crew.

(3) Every ship of 400 tons gross tonnage and above and every ship which is certified to carry 15 persons or more engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention and every fixed and floating platform engaged in exploration and exploitation of the sea-bed, shall be provided with a Garbage Record Book. The Garbage Record Book, whether as a part of the ship's official logbook or otherwise, shall be in the form specified in the Appendix to this Annex;

(a) each discharge operation, or completed incineration, shall be recorded in the Garbage Record Book and signed for on the date of the incineration or discharge by the officer in charge. Each completed page of the Garbage Record Book shall be signed by the master of the ship. The entries in the Garbage Record Book shall be both in an official language of the State whose flag the ship is entitled to fly, and in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy;

(b) the entry for each incineration or discharge shall include date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged;

(c) the Garbage Record Book shall be kept on board the ship and in such a place as to be available for inspection in a reasonable time. This document shall be preserved for a period of two years after the last entry is made on the record;

(d) in the event of discharge, escape or accidental loss referred to in regulation 6 of this Annex an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.

(4) The Administration may waive the requirements for Garbage Record Books for:

(i) any ship engaged on voyages of 1 hour or less in duration which is certified to carry 15 persons or more; or

(ii) fixed or floating platforms while engaged in exploration and exploitation of the sea-bed.

(5) The competent authority of the Government of a Party to the Convention may inspect the Garbage Record Book on board any ship to which this regulation applies while the ship is in its ports or offshore terminals and may make a copy of any entry in that book, and may require the master of the ship to certify that the copy is a true copy of such an entry. Any copy so made, which has been certified by the master of the ship as a true copy of an entry in the ship's Garbage Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of a Garbage Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

(6) In the case of ships built before 1 July 1997, this regulation shall apply as from 1 July 1998.

Appendix is added to the Annex as follows:

APPENDIX

FORM OF GARBAGE RECORD BOOK

Name of ship:_____

Distinctive number or letters _____

IMO No. _____

Period: From:_____To:_____

1. Introduction

In accordance with Regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) a record is to be kept of each discharge operation or completed incineration. This includes discharges at sea, to reception facilities, or to other ships.

2. Garbage and garbage management:

Garbage includes all kinds of food, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the vessel and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL 73/78 (such as oil, sewage or noxious liquid substances).

The Guidelines for the Implementation of Annex V of MARPOL 73/78 should also be referred to for relevant information.

3. Description of the garbage

The garbage is to be grouped into categories for the purposes of this record book as follows:

1. Plastics
2. Floating dunnage, lining, or packing material
3. Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
4. Paper Products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash

4. Entries in the Garbage Record Book

Entries in the Garbage Record Book shall be made on each of the following occasions:

(a) When garbage is discharged into the sea:

(i) Date and time of discharge

(ii) Position of the ship (latitude and longitude)

(iii) Category of garbage discharged

(iv) Estimated amount discharged for each category in m^3

(v) Signature of the officer in charge of the operation.

(b) When garbage is discharged to reception facilities ashore or to other ships:

(i) Date and time of discharge

(ii) Port or facility, or name of ship

(iii) Category of garbage discharged

(iv) Estimated amount discharged for each category in mΔ

(v) Signature of officer in charge of the operation

(c) When garbage is incinerated:

(i) Date and time of start and stop of incineration

(ii) Position of the ship (latitude and longitude)

(iii) Estimated amount incinerated in mΔ

(iv) Signature of the officer in charge of the operation.

(d) Accidental or other exceptional discharges of garbage

(i) Time of occurrence

(ii) Port or position of the ship at time of occurrence

(iii) Estimated amount and category of garbage

(iv) Circumstances of disposal, escape or loss, the reason therefore and general remarks.

4.2 Receipts

The master should obtain from the operator of port reception facilities, or from the master of the ship receiving the garbage, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept on board the ship with the Garbage Record Book for two years.

4.3 Amount of garbage

The amount of garbage on board should be estimated in mΔ, if possible separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognized that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, e.g. the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

RECORD OF GARBAGE DISCHARGES

Ship's Name: _____ Distinctive No., or letters _____ IMO No.: _____

Garbage Categories:

1: Plastic.

2: Floating dunnage, lining, or packing materials.

3: Ground-down paper products, rags, glass, metal, bottles, crockery, etc.

4: Paper products, rags, glass, metal, bottles, crockery, etc.

5: Food waste.

6: Incinerator ash.

NOTE: THE DISCHARGE OF ANY GARBAGE OTHER THAN FOOD WASTE IS PROHIBITED IN SPECIAL AREAS. ONLY GARBAGE DISCHARGED INTO THE SEA MUST BE CATEGORIZED. GARBAGE OTHER THAN CATEGORY 1 DISCHARGED TO RECEPTION FACILITIES NEED ONLY BE LISTED AS A TOTAL ESTIMATED AMOUNT.

Date/time	Position of the Ship	Estimated Amount Discharged into Sea (m^3)					Estimated Amount Discharged to Reception Facilities or to other ship (m^3)		Estimated Amount Incinerated (m^3)	Certification/ Signature
		CAT, 2	CAT, 3	CAT, 4	CAT, 5	CAT, 6	CAT. 1	Other		

Master's Signature: _____ Date: _____

Amendments to Protocol I of the Annex of the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto, London, 1996

Done at London 10 July 1996

Entered into force 1 January 1998 (not for United States)

Depository: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

RESOLUTION MEPC.68(38)
adopted on 10 July 1996

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(Amendments to Protocol I)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

NOTING ALSO that there is a need for more precise requirements with regard to when to make reports in article II of Protocol I. Provisions concerning Reports of Incidents Involving Harmful Substances, of the 1973 Convention,

HAVING CONSIDERED the amendments to article II of Protocol I of the 1973 Convention, agreed at its thirty-seventh session and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. ADOPTS, in accordance with article 16(2)(b) of the 1973 Convention, amendments to Protocol I of MARPOL 73/78, the text of which is set out at Annex to the present resolution;

2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 July 1997, unless prior to the date, not less than one-third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with article 16(2)(g)(ii) of the 1973 Convention the amendments shall enter into force on 1 January 1998 in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex; and

5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its Annex.

ANNEX

TEXT OF AMENDMENTS TO PROTOCOL OF MARPOL 73/78

Existing text of article II(1) shall be replaced by the following:

"(1) The report shall be made when an incident involves:

(a) a discharge above the permitted level or probable discharge of oil or of noxious liquid substances for whatever reason including those for the purpose of securing the safety of the ship or for saving life at sea; or

(b) a discharge or probable discharge of harmful substances in packaged form, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges; or

(c) damage, failure or breakdown of a ship of 15 metres in length or above which:

(i) affects the safety of the ship, including but not limited to collision, grounding, fire, explosion, structural failure, flooding, and cargo shifting; or

(ii) results to impairment of the safety of navigation; including but not limited to, failure or breakdown of steering gear, propulsion plant, electrical generating system, and essential shipborne navigational aids; or

(d) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under the present Convention."

Amendments to Annex I (Regulation 10 and New Regulation 25A on Special Areas and Intact Stability) of the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto, London, 1997

Done at London 23 September 1997

Entered into force 1 February 1999

Depositary: International Maritme Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

RESOLUTION MEPC.75(40)
adopted on 25 September 1997

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

(Amendments to regulation 10 and new regulation 25A of Annex I of MARPOL 73/78)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the 1973 Convention) and article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the 1978 Protocol) which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

CONSIDERING the proposal of the littoral States to make North West European waters a special area under Annex I of MARPOL 73/78,

RECOGNIZING that there is a need to specify intact stability criteria for double hull tankers by adding an appropriate regulation to Annex I of MARPOL 73/78,

HAVING CONSIDERED the proposed amendments to regulation 10 and new regulation 25A of Annex I of MARPOL 73/78, which were approved by the thirty-ninth session of the Committee and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. ADOPTS, in accordance with article 16(2)(d) of the 1973 Convention, amendments to Annex I of MARPOL 73/78, the text of which is set out in the Annex to the present resolution;

2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 August 1998, unless prior to that date, not less than one-third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world s merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the amendments shall enter into force on 1 February 1999 upon their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the Annex;

5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to MARPOL 73/78 copies of the resolution and its Annex.

ANNEX

AMENDMENTS TO REGULATION 10 AND NEW REGULATION 25A OF ANNEX I OF MARPOL 73/78

1 The existing text of regulation 10 is amended as follows:

Regulation 10

Methods for the prevention of oil pollution from ships while operating in special areas

.1 The introductory part of paragraph (1) is replaced by the following:

(1) For the purpose of this Annex, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the Gulfs area , the Gulf of Aden area, the Antarctic area and the North West European waters , which are defined as follows: .

.2 The following new paragraph (1)(h) is added after existing paragraph (1)(g):

(h) The North West European waters include the North Sea and its approaches, the Irish Sea and its approaches, the Celtic Sea, the English Channel and its approaches and part of the North East Atlantic immediately to the west of Ireland. The area is bounded by lines joining the following points:

(i) 48 27 N on the French coast
(ii) 48 27 N; 6 25 W
(iii) 49 52 N; 7 44 W
(iv) 50 30 N; 12 W
(v) 56 30 N; 12 W
(vi) 62 N; 3 W
(vii) 62 N on the Norwegian coast
(viii) 57 44.8 N on the Danish and Swedish coasts

.3 The introductory part of paragraph (7)(b) is replaced by the following:

(b) Red Sea area, Gulfs area, Gulf of Aden area and North West European waters: .

2 The following new regulation 25A is added after existing regulation 25:

Regulation 25A

Intact stability

(1) This regulation shall apply to oil tankers of 5,000 tons deadweight and above:

(a) for which the building contract is placed on or after 1 February 1999, or

(b) in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 August 1999, or

(c) the delivery of which is on or after 1 February 2002, or

(d) which have undergone a major conversion:

(i) for which the contract is placed after 1 February 1999; or

(ii) in the absence of a contract, the construction work of which is begun after 1 August 1999; or

(iii) which is completed after 1 February 2002.

(2) Every oil tanker shall comply with the intact stability criteria specified in subparagraphs (a) and (b) of this paragraph, as appropriate, for any operating draught under the worst possible conditions of cargo and ballast loading, consistent with good operational practice, including intermediate stages of liquid transfer operations. Under all conditions the ballast tanks shall be assumed slack.

(a) In port, the initial metacentric height GMo, corrected for free surface measured at 0 heel, shall be not less than 0.15 m;

(b) At sea, the following criteria shall be applicable:

(i) the area under the righting lever curve (GZ curve) shall be not less than 0.055 m.rad up to $\theta = 30$ angle of heel and not less than 0.09 m.rad up to $\theta = 40$ or other angle of flog θ_f if this angle is less than 40 . Additionally, the area under the righting lever curve (GZ curve) between the angles of heel of 30 and 40 or between 30 and θ_f, if this angle is less than 40 , shall be not less than 0.03 m.rad;

(ii) the righting lever GZ shall be at least 0.20 m at an angle of heel equal to or greater than 30 ;

(iii) the maximum righting arm shall occur at an angle of heel preferably exceeding 30 but not less than 25 ; and

(iv) the initial metacentric height GMo, corrected for free surface measured at 0 heel, shall be not less than 0.15 m.

(3) The requirements of paragraph (2) shall be met through design measures. For combination carriers simple supplementary operational procedures may be allowed.

(4) Simple supplementary operational procedures for liquid transfer operations referred to in paragraph (3) shall mean written procedures made available to the master which:

(a) are approved by the Administration;

(b) indicate those cargo and ballast tanks which may, under any specific condition of liquid transfer and possible range of cargo densities, be slack and still allow the stability criteria to be met. The slack tanks may vary during the liquid transfer operations and be of any combination provided they satisfy the criteria;

(c) will be readily understandable to the officer-in-charge of liquid transfer operations;

(d) provide for planned sequences of cargo/ballast transfer operations;

(e) allow comparisons of attained and required stability using stability performance criteria in graphical or tabular form;

(f) require no extensive mathematical calculations by the officer-in-charge;

(g) provide for corrective actions to be taken by the officer-in-charge in case of departure from recommended values and in case of emergency situations; and

(h) are prominently displayed in the approved trim and stability booklet and at the cargo/ballast transfer control station and in any computer software by which stability calculations are performed.

CERTIFIED TRUE COPY of the text of the amendments to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (Amendments to regulation 10 and new regulation 25A of Annex I of MARPOL 73/78) adopted at the fortieth session of the Marine Environment Protection Committee of the International Maritime Organization on 25 September 1997 in conformity with article VI of the

Protocol and article 16 of the Convention by resolution MEPC.75(40), the original text of which is deposited with the Secretary-General of the International Maritime Organization.

For the Secretary-General of the International Maritime Organization:

London,

[Signature]

9. VI. 1998

COPIE CERTIFIÉE du texte des amendements à l'Annexe du Protocole de 1978 relatif à la Convention internationale de 1973 pour la prévention de la pollution par les navires (amendements à la régle 10 et nouvelle régle 25A de l'Annexe I de MARPOL 73/78), adoptés le 25 septembre 1997, à la quarantimé session du Comité de la protection due milieu marini de l'Organisation maritime internationale, conformémemt aux dispositions de l'article VI du Protocole et de l'article 16 de la Convention, par la résolution MEPC.75(40), dont l'original est déposé auprés de Secrétaire généeral de l'Organisation maritime internationale.

ЗАВЕРЕННАЯ КОПИЯ текста поправок к Приложению к Протоколу 1978 года нежлунарлной р.зве:длл д. кЬЫед.твсаіке:лю загрязнения с судов 1973 года (нопрбвки к прбвилу 10 и ковое прбвило 25А Приложения I к МААРПО.Т 73/78). одобренных н сорковой ЬЫеЬЫЬлл Л.нлтета о. защлте н.сЬЫр.й среды Международной морской организадии 25 сентября 1997 года сезолюдией МЕРС.75(40) в соотвебствии со статьей VI Протокола й статьей 16 Л.зве:олл подинный тексб которых сдан на хранение Генеральноу селретарю Международной Лорской организапии.

COPIA AUTÉNTICA CERTIFICADA del texto de las enmiendas del anexo del Protocolo de 1978 relativo al Convenio internacional para prevenir la contaminación por los buques, 1973 (enmiendas a la regla 10 y nueva regla 25A del Anexo I del MARPOL 73/78), aprobadas en el 40• periodo de sesiones del Comité de Protección del Medio Marino de la Organización Marítima Internacional el 25 de septiembre de 1997 mediante la resolución MEPC.75(40), de conformidad con el artículo VI del Protocolo y el artículo 16 del Convenio, enmiendas cuyo texto original se ha depositado ante el Secretario General de la Organización Marítima Internacional.

Protocol of 1997 (Addition of Annex VI) to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto, London, 1997

Done at London 26 September 1997

Entered into force (not in force)

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

PROTOCOL OF 1997 TO AMEND THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973, AS MODIFIED BY THE PROTOCOL OF 1978 RELATING THERETO

THE PARTIES TO THE PRESENT PROTOCOL,

BEING Parties to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973,

RECOGNIZING the need to prevent and control air pollution from ships,

RECALLING Principle 15 of the Rio Declaration on Environment and Development which calls for the application of a precautionary approach,

CONSIDERING that this objective could best be achieved by the conclusion of a Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto,

HAVE AGREED as follows:

Article I

Instrument to be amended

The instrument which the present Protocol amends is the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as the "Convention").

Article 2

Addition of Annex VI to the Convention

Annex VI entitled Regulations for the Prevention of Air Pollution from Ships, the text of which is set out in the annex to the present Protocol, is added.

Article 3

General Obligations

1 The Convention and the present Protocol shall, as between the Parties to the present Protocol, be read and interpreted together as one single instrument.

2 Every reference to the present Protocol constitutes at the same time a reference to the Annex hereto.

Article 4

Amendment procedure

In applying article 16 of the Convention to an amendment to Annex VI and its appendices, the reference to "a Party to the Convention" shall be deemed to mean the reference to a Party bound by that Annex.

FINAL CLAUSES

Article 5

Signature, ratification, acceptance, approval and accession

1 The present Protocol shall be open for signature at the Headquarters of the International Maritime Organization (hereinafter referred to as the "Organization") from 1 January 1998 until 31 December 1998 and shall thereafter remain open for accession. Only Contracting States to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") may become Parties to the present Protocol by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature, subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

2 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization (hereinafter referred to as the "Secretary-General").

Article 6

Entry into force

1 The present Protocol shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with article 5 of the present Protocol.

2 Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Protocol enters into force shall take effect three months after the date of deposit.

3 After the date on which an amendment to the present Protocol is deemed to have been accepted in accordance with article 16 of the Convention, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

Article 7

Denunciation

1 The present Protocol may be denounced by any Party to the present Protocol at any time after the expiry of five years from the date on which the Protocol enters into force for that Party.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect twelve months after receipt of the notification by the Secretary-General or after the expiry of any other longer period which may be indicated in the notification.

4 A denunciation of the 1978 Protocol in accordance with article VII thereof shall be deemed to include a denunciation of the present Protocol in accordance with this article. Such denunciation shall take effect on the date on which denunciation of the 1978 Protocol takes effect in accordance with article VII of that Protocol.

Article 8

Depositary

1 The present Protocol shall be deposited with the Secretary-General (hereinafter referred to as the "Depositary").

2 The Depositary shall:

(a) inform all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof,

(ii) the date of entry into force of the present Protocol; and

(iii) the deposit of any instrument of denunciation of the present Protocol, together with the date on which it was received and the date on which the denunciation takes effect; and

(b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

3 As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 9

Languages

The present Protocol is established in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duty authorized by their respective Governments for that purpose, have signed the present Protocol.

DONE AT LONDON this twenty-sixth day of September, one thousand nine hundred and ninety-seven.

ANNEX

ADDITION OF ANNEX VI TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973, AS MODIFIED BY THE PROTOCOL OF 1978 RELATING THERETO

The following new Annex VI is added after the existing Annex V:

"ANNEX VI

REGULATIONS FOR THE PREVENTION OF AIR POLLUTION FROM SHIPS

CHAPTER I - GENERAL

REGULATION 1

Application

The provisions of this Annex shall apply to all ships, except where expressly provided otherwise in regulations 3, 5, 6, 13, 15, 18 and 19 of this Annex.

REGULATION 2

Definitions

For the purpose of this Annex:

(1) "A similar stage of construction" means the stage at which:

(a) construction identifiable with a specific ship begins; and

(b) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

(2) "Continuous feeding" is defined as the process whereby waste is fed into a combustion chamber without human assistance while the incinerator is in normal operating conditions with the combustion chamber operative temperature between 850°C and 1200° C.

(3) "Emission" means any release of substances, subject to control by this Annex from ships into the atmosphere or sea.

(4) "New installations", in relation to regulation 12 of this Annex, means the installation of systems, equipment, including new portable fire extinguishing units, insulation, or other material on a ship after the date on which this Annex enters into force, but excludes repair or recharge of previously installed systems, equipment, insulation, or other material, or recharge of portable fire extinguishing units.

(5) "NOx Technical Code" means the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by Conference resolution 2, as may be amended by the Organization, provided that such amendments are adopted and brought into force in accordance with the provisions of article 16 of the present Convention concerning amendment procedures applicable to an appendix to an Annex.

(6) "Ozone depleting substances" means controlled substances defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Laver, 1987, listed in Annexes A, B, C or E to the said Protocol in force at the time of application or interpretation of this Annex.

"Ozone depleting substances" that may be found on board ship include, but are not limited to:

Halon 1211 Bromochlorodifluoromethane

Halon 1301 Bromotrifluoromethane

Halon 2402 1,2-Dibromo-1,1,2,2-tetrafluoroethane (also known as Halon 114B2)

CFC- I I Trichlorofluoromethane

CFC-12 Dichlorodifluoromethane

CFC-113 1,1,2-Trichloro-1,2,2-trifluoroethane

CFC-114 1,2-Dichloro- 1, 1,2,2-tetrafluoroethane

CFC-115 Chloropentafluoroethane

(7) "Sludge oil" means sludge from the fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery, or waste oil from bilge water separators, oil filtering equipment or drip trays.

(8) "Shipboard incineration" means the incineration of wastes or other matter on board a ship, if such wastes or other matter were generated during the normal operation of that ship.

(9) "Shipboard incinerator" means a shipboard facility designed for the primary purpose of incineration.

(10) "Ships constructed" means ships the keels of which are laid or which are at a similar stage of construction.

(11) "SOx Emission Control Area" means an area where the adoption of special mandatory measures for SOx emissions from ships is required to prevent, reduce and control air pollution from SOx and its attendant adverse impacts on land and sea areas. SOx Emission Control Areas shall include those listed in regulation 14 of this Annex.

(12) "Tanker" means an oil tanker as defined in regulation 1(4) of Annex I or a chemical tanker as defined in regulation 1 (1) of Annex II of the present Convention.

(13) "The Protocol of 1997" means the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto.

REGULATION 3

General Exceptions

Regulations of this Annex shall not apply to:

(a) any emission necessary for the purpose of securing the safety of a ship or saving life at sea; or

(b) any emission resulting from damage to a ship or its equipment:

(i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the emission for the purpose of preventing or minimizing the emission; and

(ii) except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result.

REGULATION 4

Equivalents

(1) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Annex if such fitting, material, appliance or apparatus is at least as effective as that required by this Annex.

(2) The Administration which allows a fitting, material, appliance or apparatus as an alternative to that required by this Annex shall communicate to the Organization for circulation to the Parties to the present Convention particulars thereof, for their information and appropriate action, if any.

CHAPTER II - SURVEY, CERTIFICATION AND MEANS OF CONTROL

REGULATION 5

Surveys and Inspections

(1) Every ship of 400 gross tonnage or above and every fixed and floating drilling rig and other platforms shall be subject to the surveys specified below:

(a) an initial survey before the ship is put into service or before the certificate required under regulation 6 of this Annex is issued for the first time. This survey shall be such as to ensure that the equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Annex;

(b) periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the equipment, systems, fittings, arrangements and material fully comply with the requirements of this Annex; and

(c) a minimum of one intermediate survey during the period of validity of the certificate which shall be such as to ensure that the equipment and arrangements fully comply with the requirements of this Annex and are in good working order. In cases where only one such intermediate survey is carried out in a single certificate validity period, and where the peri-

od of the certificate exceeds 2 1/2 years, it shall be held within six months before or after the halfway date of the certificate's period of validity. Such intermediate surveys shall be endorsed on the certificate issued under regulation 6 of this Annex.

(2) in the case of ships of less than 400 gross tonnage, the Administration may establish appropriate measures in order to ensure that the applicable provisions of this Annex are complied with.

(3) Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. Such organizations shall comply with the guidelines adopted by the Organization. In every case the Administration concerned shall fully guarantee the completeness and efficiency of the survey.

(4) The survey of engines and equipment for compliance with regulation 13 of this Annex shall be conducted in accordance with the NOx Technical Code.

(5) The Administration shall institute arrangements for unscheduled inspections to be carried out during the period of validity of the certificate. Such inspections shall ensure that the equipment remains in all respects satisfactory for the service for which the equipment is intended. These inspections may be carried out by their own inspection service, nominated surveyors, recognized organizations, or by other Parties upon request of the Administration. Where the Administration, under the provisions of paragraph (1) of this regulation, establishes mandatory annual surveys, the above unscheduled inspections shall not be obligatory.

(6) When a nominated surveyor or recognized organization determines that the condition of the equipment does not correspond substantially with the particulars of the certificate, they shall ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken, the certificate should be withdrawn by the Administration. If the ship is in a port of another Party, the appropriate authorities of the port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation.

(7) The equipment shall be maintained to conform with the provisions of this Annex and no changes shall be made in the equipment, systems, fittings, arrangements, or material covered by the survey, without the express approval of the Administration The direct replacement of such equipment and fittings with equipment and fittings that conform with the provisions of this Annex is permitted.

(8) Whenever an accident occurs to a ship or a defect is discovered, which substantially affects the efficiency or completeness of its equipment covered by this Annex, the master or owner of the ship shall report at the earliest opportunity to the Administration, a nominated surveyor, or recognized organization responsible for issuing the relevant certificate.

REGULATION 6

Issue of International Air Pollution Prevention Certificate

(1) An International Air Pollution Prevention Certificate shall be issued, after survey in accordance with the provisions of regulation 5 of this Annex, to:

(a) any ship of 400 gross tonnage or above engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties; and

(b) platforms and drilling rigs engaged in voyages to waters under the sovereignty or jurisdiction of other Parties to the Protocol of 1997.

(2) Ships constructed before the date of entry into force of the Protocol of 1997 shall be issued with an International Air Pollution Prevention Certificate in accordance with paragraph (1) of this regulation no later than the first scheduled drydocking after entry into force of the Protocol of 1997, but in no case later than 3 years after entry into force of the Protocol of 1997.

(3) Such certificate shall be issued either by the Administration or by any person or organization duly authorized by it. In every case the Administration assumes full responsibility for the certificate.

REGULATION 7

Issue of a Certificate by another Government

(1) The Government of a Party to the Protocol of 1997 may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, issue or authorize the issuance of an International Air Pollution Prevention Certificate to the ship in accordance with this Annex.

(2) A copy of the certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(3) A certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as a certificate issued under regulation 6 of this Annex.

(4) No International Air Pollution Prevention Certificate shall be issued to a ship which is entitled to fly the flag of a State which is not a Party to the Protocol of 1997.

REGULATION 8

Form of Certificate

The International Air Pollution Prevention Certificate shall be drawn up in an official language of the issuing country in the form corresponding to the model given in appendix I to this Annex. If the language used is not English, French, or Spanish, the text shall include a translation into one of these languages.

REGULATION 9

Duration and Validity of Certificate

(1) An International Air Pollution Prevention Certificate shall be issued for a period specified by the Administration. which shall not exceed five years from the date of issue.

(2) No extension of the five-year period of validity of the International Air Pollution Prevention Certificate shall be permitted, except in accordance with paragraph (3).

(3) If the ship, at the time when the International Air Pollution Prevention Certificate expires, is not in a port of the State whose flag it is entitled to fly or in which it is to be surveyed, the Administration may extend the certificate for a period of no more than 5 months. Such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag it is entitled to fly or in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. After arrival in the State whose flag it is entitled to fly or in which it is to be surveyed, the ship shall not be entitled by virtue of such extension to leave the port or State without having obtained a new International Air Pollution Prevention Certificate.

(4) An International Air Pollution Prevention Certificate shall cease to be valid in any of the following circumstances:

(a) if the inspections and surveys are not carried out within the periods specified under regulation 5 of this Annex;

(b) if significant alterations have taken place to the equipment, systems, fittings, arrangements or material to which this Annex applies without the express approval of the Administration, except the direct replacement of such equipment or fittings with equipment or fittings that conform with the requirements of this Annex. For the purpose of regulation 13, significant alteration shall include any change or adjustment to the system, fittings, or arrangement of a diesel engine which results in the nitrogen oxide limits applied to that engine no longer being complied with; or

(c) upon transfer of the ship to the flag of another State. A new certificate shall be issued only when the Government issuing the new certificate is fully satisfied that the ship is in full compliance with the requirements of regulation 5 of this Annex. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration of the other Party a copy of the International Air Pollution Prevention Certificate carried by the ship before the transfer and, if available, copies of the relevant survey reports.

REGULATION 10

Port State Control on Operational Requirements

(1) A ship, when in a port or an offshore terminal under the jurisdiction of another Party to the Protocol of 1997, is subject to inspection by officers duly authorized by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of air pollution from ships.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

REGULATION 11

Detection of Violations and Enforcement

(1) Parties to this Annex shall co-operate in the detection of violations and the enforcement of the provisions of this Annex, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) A ship to which the present Annex applies may, in any port or offshore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has emitted any of the substances covered by this Annex in violation of the pro-

vision of this Annex. If an inspection indicates a violation of this Annex, a report shall be forwarded to the Administration for any appropriate action.

(3) Any Party shall furnish to the Administration evidence, if any, that the ship has emitted any of the substances covered by this Annex in violation of the provisions of this Annex. If it is practicable to do so, the competent authority of the former Party shall notify the master of the ship of the alleged violation.

(4) Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

(5) A Party may also inspect a ship to which this Annex applies when it enters the ports or offshore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has emitted any of the substances covered by the Annex in any place in violation of this Annex. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

(6) The international law concerning the prevention, reduction, and control of pollution of the marine environment from ships, including that law relating to enforcement and safeguards, in force at the time of application or interpretation of this Annex, applies, *mutatis mutandis*, to the rules and standards set forth in this Annex.

CHAPTER III - REQUIREMENTS FOR CONTROL OF EMISSIONS FROM SHIPS

REGULATION 12

Ozone Depleting Substances

(1) Subject to the provisions of regulation 3, any deliberate emissions of ozone depleting substances shall be prohibited. Deliberate emissions include emissions occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, except that deliberate emissions do not include minimal releases associated with the recapture or recycling of an ozone depleting substance. Emissions arising from leaks of an ozone depleting substance, whether or not the leaks are deliberate, may be regulated by Parties to the Protocol of 1997.

(2) New installations which contain ozone depleting substances shall be prohibited on all ships, except that new installations containing hydro-chlorofluorocarbons (HCFCs) are permitted until 1 January 2020.

(3) The substances referred to in this regulation, and equipment containing such substances, shall be delivered to appropriate reception facilities when removed from ships.

REGULATION 13

Nitrogen Oxides (NOx)

(1) (a) This regulation shall apply to:

(i) each diesel engine with a power output of more than 130 kW which is installed on a ship constructed on or after 1 January 2000; and

(ii) each diesel engine with a power output of more than 130 kW which undergoes a major conversion on or after 1 January 2000.

(b) This regulation does not apply to:

(i) emergency diesel engines, engines installed in lifeboats and any device or equipment intended to be used solely in case of emergency; and

(ii) engines installed on ships solely engaged in voyages within waters subject to the sovereignty or jurisdiction of the State the flag of which the ship is entitled to fly, provided that such engines are subject to an alternative NOx control measure established by the Administration.

(c) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, the Administration may allow exclusion from the application of this regulation to any diesel engine which is installed on a ship constructed, or on a ship which undergoes a major conversion, before the date of entry into force of the present Protocol, provided that the ship is solely engaged in voyages to ports or offshore terminals within the State the flag of which the ship is entitled to fly.

(2) (a) For the purpose of this regulation, "major conversion" means a modification of an engine where:

(i) the engine is replaced by a new engine built on or after 1 January 2000, or

(ii) any substantial modification, as defined in the NOx Technical Code, is made to the engine, or

(iii) the maximum continuous rating of the engine is increased by more than 10%.

(b) The NOx emission resulting from modifications referred to in the sub-paragraph (a) of this paragraph shall be documented in accordance with the NOx Technical Code for approval by the Administration.

(3) (a) Subject to the provision of regulation 3 of this Annex, the operation of each diesel engine to which this regulation applies is prohibited, except when the emission of nitrogen oxides (calculated as the total weighted emission of NO_2) from the engine is within the following limits:

(i) 17.0g/kWh when n is less than 130 rpm

(ii) $45.0*n(^{-0.2})$g/kWh when n is 130 or more but less than 2000 rpm

(iii) 9.8 g/kWh when n is 2000 rpm or more

where n = rated engine speed (crankshaft revolutions per minute).

When using fuel composed of blends from hydrocarbons derived from petroleum refining, test procedure and measurement methods shall be in accordance with the NOx Technical Code, taking into consideration the Test Cycles and Weighting Factors outlined in appendix II to this Annex.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, the operation of a diesel engine is permitted when:

(i) an exhaust gas cleaning system, approved by the Administration in accordance with the NOx Technical Code, is applied to the engine to reduce onboard NOx emissions at least to the limits specified in sub-paragraph (a), or

(ii) any other equivalent method, approved by the Administration taking into account relevant guidelines to be developed by the Organization, is applied to reduce onboard NOx emissions at least to the limit specified in sub-paragraph (a) of this paragraph.

REGULATION 14

Sulphur Oxides (SOx)

General requirements

(1) The sulphur content of any fuel oil used on board ships shall not exceed 4.5% m/m.

(2) The worldwide average sulphur content of residual fuel oil supplied for use on board ships shall be monitored taking into account guidelines to be developed by the Organization.

Requirements within SOx Emission Control Areas

(3) For the purpose of this regulation, SOx Emission Control Areas shall include:

(a) the Baltic Sea area as defined in regulation 10(1)(b) of Annex I; and

(b) any other sea area, including port areas, designated by the Organization in accordance with criteria and procedures for designation of SOx Emission Control Areas with respect to the prevention of air pollution from ships contained in appendix III to this Annex.

(4) While ships are within SOx Emission Control Areas, at least one of the following conditions shall be fulfilled:

(a) the sulphur content of fuel oil used on board ships in a SOx Emission Control Area does not exceed 1.5% m/m;

(b) an exhaust gas cleaning system, approved by the Administration taking into account guidelines to be developed by the Organization, is applied to reduce the total emission of sulphur oxides from ships, including both auxiliary and main propulsion engines, to 6.0 g SOx/kWh or less calculated as the total weight of sulphur dioxide emission. Waste streams from the use of such equipment shall not be discharged into enclosed ports, harbours and estuaries unless it can be thoroughly documented by the ship that such waste streams have no adverse impact on the ecosystems of such enclosed ports, harbours and estuaries, based upon criteria communicated by the authorities of the port State to the Organization. The Organization shall circulate the criteria to all Parties to the Convention; or

(c) any other technological method that is verifiable and enforceable to limit SOx emissions to a level equivalent to that described in sub-paragraph (b) is applied. These methods shall be approved by the Administration taking into account guidelines to be developed by the Organization.

(5) The sulphur content of fuel oil referred to in paragraph (1) and paragraph (4)(a) of this regulation shall be documented by the supplier as required by regulation 18 of this Annex.

(6) Those ships using separate fuel oils to comply with paragraph (4)(a) of this regulation shall allow sufficient time for the fuel oil service system to be fully flushed of all fuels exceeding 1.5% m/m sulphur content prior to entry into a SOx Emission Control Area. The volume of low sulphur fuel oils (less than or equal to 1.5% sulphur content) in each tank as well as the date, time, and position of the ship when any fuel-changeover operation is completed, shall be recorded in such logbook as prescribed by the Administration.

(7) During the first twelve months immediately following entry into force of the present Protocol, or of an amendment to the present Protocol designating a specific SOx Emission Control Area under paragraph (3)(b) of this regulation, ships entering a SOx Emission Control Area referred to in paragraph (3)(a) of this regulation or designated under paragraph (3)(b) of this regulation are exempted from the requirements in paragraphs (4) and (6) of this regulation and from the requirements of paragraph (5) of this regulation insofar as they relate to paragraph (4)(a) of this regulation.

REGULATION 15

Volatile Organic Compounds

(1) If the emissions of volatile organic compounds (VOCs) from tankers are to be regulated in ports or terminals under the jurisdiction of a Party to the Protocol of 1997, they shall be regulated in accordance with the provisions of this regulation.

(2) A Party to the Protocol of 1997 which designates ports or terminals under its jurisdiction in which VOCs emissions are to be regulated, shall submit a notification to the Organization. This notification shall include information on the size of tankers to be controlled, on cargoes requiring vapour emission control systems, and the effective date of such control. The notification shall be submitted at least six months before the effective date.

(3) The Government of each Party to the Protocol of 1997 which designates ports or terminals at which VOCs emissions from tankers are to be regulated shall ensure that vapour emission control systems, approved by that Government taking into account the safety standards developed by the Organization, are provided in ports and terminals designated, and are operated safely and in a manner so as to avoid undue delay to the ship.

(4) The Organization shall circulate a list of the ports and terminals designated by the Parties to the Protocol of 1997 to other Parties to the Protocol of 1997 and Member States of the Organization for their information.

(5) All tankers which are subject to vapour emission control in accordance with the provisions of paragraph (2) of this regulation shall be provided with a vapour collection system approved by the Administration taking into account the safety standards developed by the Organization, and shall use such system during the loading of such cargoes. Terminals which have installed vapour emission control systems in accordance with this regulation may accept existing tankers which are not fitted with vapour collection systems for a period of three years after the effective date identified in paragraph (2).

(6) This regulation shall only apply to gas carriers when the type of loading and containment systems allow safe retention of non-methane VOCS on board, or their safe return ashore.

REGULATION 16

Shipboard Incineration

(1) Except as provided in paragraph (5), shipboard incineration shall be allowed only in a shipboard incinerator.

(2) (a) Except as provided in sub-paragraph (b) of this paragraph, each incinerator installed on board a ship on or after 1 January 2000 shall meet the requirements contained in appendix IV to this Annex. Each incinerator shall be approved by the Administration taking into account the standard specifications for shipboard incinerators developed by the Organization.

(b) The Administration may allow exclusion from the application of sub-paragraph (a) of this paragraph to any incinerator which is installed on board a ship before the date of entry into force of the Protocol of 1997, provided that the ship is solely engaged in voyages within waters subject to the sovereignty or jurisdiction of the State the flag of which the ship is entitled to fly.

(3) Nothing in this regulation affects the prohibition in, or other requirements of, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended, and the 1996 Protocol thereto.

(4) Shipboard incineration of the following substances shall be prohibited:

(a) Annex I, II and III cargo residues of the present convention and related contaminated packing materials;

(b) polychlorinated biphenyls (PCBs);

(c) garbage, as defined in Annex V of the present Convention, containing more than traces of heavy metals; and

(d) refined petroleum products containing halogen compounds.

(5) Shipboard incineration of sewage sludge and sludge oil generated during the normal operation of a ship may also take place in the main or auxiliary power plant or boilers, but in those cases, shall not take place inside ports, harbours and estuaries.

(6) Shipboard incineration of polyvinyl chlorides (PVCs) shall be prohibited, except in shipboard incinerators for which IMO Type Approval Certificates have been issued.

(7) All ships with incinerators subject to this regulation shall possess a manufacturer's operating manual which shall specify how to operate the incinerator within the limits described in paragraph 2 of appendix IV to this Annex.

(8) Personnel responsible for operation of any incinerator shall be trained and capable of implementing the guidance provided in the manufacturer's operating manual.

(9) Monitoring of combustion flue gas outlet temperature shall be required at all times and waste shall not be fed into a continuous-feed shipboard incinerator when the temperature is below the minimum allowed temperature of 850°C. For batch-loaded shipboard incinerators, the unit shall be designed so that the temperature in the combustion chamber shall reach 600°C within 5 minutes after start-up.

(10) Nothing in this regulation precludes the development, installation and operation of alternative design shipboard thermal waste treatment devices that meet or exceed the requirements of this regulation.

REGULATION 17

Reception Facilities

(1) The Government of each Party to the Protocol of 1997 undertakes to ensure the provision of facilities adequate to meet the:

(a) needs of ships using its repair ports for the reception of ozone depleting substances and equipment containing such substances when removed from ships;

(b) needs of ships using its ports, terminals or repair ports for the reception of exhaust gas cleaning residues from an approved exhaust gas cleaning system when discharge into the marine environment of these residues is not permitted under regulation 14 of this Annex;

without causing undue delay to ships, and

(c) needs in ship breaking facilities for the reception of ozone depleting substances and equipment containing such substances when removed from ships.

(2) Each Party to the Protocol of 1997 shall notify the Organization for transmission to the Members of the Organization of all cases where the facilities provided under this regulation are unavailable or alleged to be inadequate.

REGULATION 18

Fuel Oil Quality

(1) Fuel oil for combustion purposes delivered to and used on board ships to which this Annex applies shall meet the following requirements:

(a) except as provided in sub-paragraph (b):

(i) the fuel oil shall be blends of hydrocarbons derived from petroleum refining. This shall not preclude the incorporation of small amounts of additives intended to improve some aspects of performance;

(ii) the fuel oil shall be free from inorganic acid;

(iii) the fuel oil shall not include any added substance or chemical waste which either:

(1) jeopardizes the safety of ships or adversely affects the performance of the machinery, or

(2) is harmful to personnel, or

(3) contributes overall to additional air pollution; and

(b) fuel oil for combustion purposes derived by methods other than petroleum refining shall not:

(i) exceed the sulphur content set forth in regulation 14 of this Annex;

(ii) cause an engine to exceed the NOx emission limits set forth in regulation 13(3)(a) of this Annex;

(iii) contain inorganic acid; and

(iv) (1) jeopardize the safety of ships or adversely affect the performance of the machinery, or

(2) be harmful to personnel, or

(3) contribute overall to additional air pollution.

(2) This regulation does not apply to coal in it's solid form or nuclear fuels.

(3) For each ship subject to regulations 5 and 6 of this Annex, details of fuel oil for combustion purposes delivered to and used on board shall be recorded by means of a bunker delivery note which shall contain at least the information specified in appendix V to this Annex.

(4) The bunker delivery note shall be kept on board the ship in such a place as to be readily available for inspection at all reasonable times. It shall be retained for a period of three years after the fuel oil has been delivered on board.

(5) (a) The competent authority of the Government of a Party to the Protocol of 1997 may inspect the bunker delivery notes on board any ship to which this Annex applies while the ship is in its port or offshore terminal, may make a copy of each delivery note, and may require the master or person in charge of the ship to certify that each copy is a true copy of such bunker delivery note. The competent authority may also verify the contents of each note through consultations with the port where the note was issued.

(b) The inspection of the bunker delivery notes and the taking of certified copies by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

(6) The bunker delivery note shall be accompanied by a representative sample of the fuel oil delivered taking into account guidelines to be developed by the Organization. The sample is to be sealed and signed by the supplier's representative and the master or officer in charge of the bunker operation on completion of bunkering operations and retained under the ship's control until the fuel oil is substantially consumed, but in any case for a period of not less than twelve months from the time of delivery.

(7) Parties to the Protocol of 1997 undertake to ensure that appropriate authorities designated by them:

(a) maintain a register of local suppliers of fuel oil;

(b) require local suppliers to provide the bunker delivery note and sample as required by this regulation, certified by the fuel oil supplier that the fuel oil meets the requirements of regulations 14 and 18 of this Annex;

(c) require local suppliers to retain a copy of the bunker delivery note for at least 3 years for inspection and verification by the port State as necessary;

(d) take action as appropriate against fuel oil suppliers that have been found to deliver fuel oil that does not comply with that stated on the bunker delivery note;

(e) inform the Administration of any ship receiving fuel oil found to be noncompliant with the requirements of regulations 14 or 18 of this Annex; and

(f) inform the Organization for transmission to Parties to the Protocol of 1997 of all cases where fuel oil suppliers have failed to meet the requirements specified in regulations 14 or 18 of this Annex.

(8) In connection with port State inspections carried out by Parties to the Protocol of 1997, the Parties further undertake to:

(a) inform the Party or non-Party under whose jurisdiction bunker delivery note was issued of cases of delivery of noncompliant fuel oil, giving all relevant information; and

(b) ensure that remedial action as appropriate is taken to bring noncompliant fuel oil discovered into compliance.

REGULATION 19

Requirements for Platforms and Drilling Rigs

(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, fixed and floating platforms and drilling rigs shall comply with the requirements of this Amex.

(2) Emissions directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources are, consistent with article 2(3)(b)(ii) of the present Convention, exempt from the provisions of this Annex. Such emissions include the following:

(a) emissions resulting from the incineration of substances that are solely and directly the result of exploration, exploitation and associated offshore processing of sea-bed mineral resources, including but not limited to the flaring of hydrocarbons and the burning of cuttings, muds, and/or stimulation fluids during well completion and testing operations, and flaring arising from upset conditions;

(b) the release of gases and volatile compounds entrained in drilling fluids and cuttings;

(c) emissions associated solely and directly with the treatment, handling, or storage of sea-bed minerals; and

(d) emissions from diesel engines that are solely dedicated to the exploration, exploitation and associated offshore processing of sea-bed mineral resources.

(3) The requirements of regulation 18 of this Annex shall not apply to the use of hydrocarbons which are produced and subsequently used on site as fuel, when approved by the Administration.

APPENDIX I

Form of IAPP Certificate
(Regulation 8)

INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATE

Issued under the provisions of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified of the Protocol of 1978 related thereto (hereinafter referred to as "the Convention") under the authority of the Government of:

_____

(full designation of country)

by:

_____

(full designation of the competent person or organization authorized under the provision of the Convention)

Name of Ship	Distinctive number or letters	IMO number	Port of registry	Gross tonnage

Type of ship: ☐ tanker
☐ ships other than tanker

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with regulation 5 of Annex VI of the Convention; and

2. That the survey shows that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of Annex VI of the Convention.

This certificate is valid until _____
subject to surveys in accordance with regulation 5 of Annex VI of the Convention.

Issued at _____

(Place of issue of certificate)

_____ _____

(Date of issue) *(signature of duly authorized official issuing the certificate)*

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that at a survey required by regulation 5 of Annex VI if the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey:

Signed _____
(Signature of duly authorized official)

Place_____

Date _____

(Seal or stamp of the authority, as appropriate)

Annual*/Intermediate* survey:

Signed _____
(Signature of duly authorized official)

Place_____

Date _____

(Seal or stamp of the authority, as appropriate)

Annual survey:

Signed _____
(Signature of duly authorized official)

Place_____

Date _____

(Seal or stamp of the authority, as appropriate)

*Delete as appropriate

Supplement to International Air Pollution Prevention Certificate (IAPP Certificate)

RECORD OF CONSTRUCTION AND EQUIPMENT

In respect of the provisions of Annex VI of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinfter referred to as "the Convention").

Notes:

1 This Record shall be permanently attached to the IAPP Certificate. The IAPP Certificate shall be available on board the ship at all times.

2 If the language of the original Record is not English, French or Spanish, the text shall include a translation into one of these languages.

3 Entries in boxes shall be made by inserting either a cross (x) for the answer "yes" and "applicable" or a (-) for the answers "no" and "not applicable" as appropriate.

4 Unless otherwise stated, regulations mentioned in this Record refer to regulations of Annex VI of the Convention and resolutions or circulars refer to those adopted by the International Maritime Organization.

1 Particulars of ship

1.1 Name of ship _____

1.2 Distinctive number or letters _____

1.3 IMO number _____

1.4 Port of registry _____

1.5 Gross tonnage _____

1.6 Date on which keel was laid or ship was at a similar stage of construction

_____

1.7 Date of commencement of major engine conversion (if applicable) (regulation 13):

_____

2 Control of emissions from ships

2.1 Ozone depleting substances (regulation 12)

2.1.1 The following fire extinguishing systems and equipment containing halogens may continue in service: _____ ☐

System Equipment	Location on board

2.1.2 The following systems and equipment containing CFCs may continue in service: _____ ☐

System Equipment	Location on board

2.1.3 The following systems containing hydro-chlorofluorocarbons (HCFCs) installed before 1 January 2020 may continue in service: _____ ☐

System Equipment	Location on board

2.2 Nitrogen oxides (NOx) (regulation 13)

2.2.1 The following diesel engines with power output greater than 130 kW, and installed on a ship constructed on or after 1 January 2000, comply with the emission standards of regulation 13(3)(a) in accordance with the NOx Technical Code: _____ ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (RPM)

2.2.2 The following diesel engines with power output greater than 130 kW, and which underwent major conversion per regulation 13(2) on or after 1 January 2000, comply with the emission standards of regulation 13(3)(a) in accordance with the NOx Technical Code: _____ ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (RPM)

2.2.3 The following diesel engines with power output greater than 130 kW and installed on a ship constructed on or after 1 January 2000, or with a power output greater than 130 kW and which underwent major conversion per regulation 13(2) on or after 1 January 2000, are fitted with an exhaust gas cleaning system or other equivalent methods in accordance with regulation 13(3), and the NOx Technical Code: _____ ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (RPM)

2.2.4 The following diesel engines from 2.2.1, 2.2.2 and 2.2.3 above are fitted with NOx emission monitoring and recording devices in accordance with the NOx Technical Code: _____ ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (RPM)

2.3 Sulphur oxides (SOx) (regulation 14)

2.3.1 When the ship operates within an SOx Emission Control Area specified in regulation 14(3), the ship uses:

.1 fuel oil with a sulphur content that does not exceed 1.5% m/m as documented by bunker delivery notes; or _____ ☐

.2 an approved exhaust gas cleaning system to reduce SOx emissions below 6.0g SOx/kWh; or _____ ☐

.3 other approved technology to reduce SOx emissions below 6.0g SOx/kWh _____ ☐

2.4 Volatile organic compounds (VOCs) (regulation 15)

2.4.1 The tanker has a vapour collection system installed and approved in accordance with MSC/Circ. 585 _____ ☐

2.5 The ship has an incinerator:

.1 which complies with resolution MEPC.76(40) as amended _____ ☐

.2 installed before 1 January 2000 which does not comply with resolution MEPC.76(40) as amended. _____ ☐

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at _____

(Place of issue of the Record)

_____ _____

Date of issue (Signature of duly authorized official issuing the Record)

Seal or stamp of the authority, as appropriate

APPENDIX II

TEST CYCLES AND WEIGHTING FACTORS

(Regulation 13)

The following test cycles and weighing factors should be applied for verification of compliance of marine diesel engines with NOx limits in accordance with regulation 13 of this Annex using the test procedure and calculation method as specified in the NOx Technical Code.

.1 For constant speed marine engines for ship main propulsion, including diesel electric drive, test cycle E2 should be applied.

.2 For variable pitch propeller sets test cycle E2 should be applied.

.3 For propeller law operated main and propeller law operated auxiliary engines the test cycle E3 should be applied.

.4 For constant speed auxiliary engines test cycle D2 should be applied.

.5 For variable speed, variable load auxiliary engines, not included above, text cycle C1 should be applied.

Test cycle for "Constant Speed Main Propulsion" Application
(incl. Diesel Electric Drive or Variable Pitch Propeller Installations)

Test cycle type E2	Speed	100%	100%	100%	100%
	Power	100%	75%	50%	25%
	Weighting Factor	0.2	0.5	0.15	0.15

Test cycle for "Propeller Law operated Main and Propeller Law operated Auxiliary Engine" Application

Text cycle type E3	Speed	100%	91%	80%	63%
	Power	100%	75%	50%	25%
	Weighting Factor	0.2	0.5	0.15	0.15

Test cycle for "Constant Speed Auxiliary Engine" Applications

Test cycle type D2	Speed	100%	100%	100%	100%	100%
	Power	100%	75%	50%	25%	10%
	Weighting Factor	0.05	0.25	0.3	0.3	0.1

Test cycle for "Variable Speed and Load Auxiliary Engine" Application

Test cycle type C1	Speed	Rated				Intermediate			Idle
	Torque %	100%	75%	50%	10%	100%	75%	50%	0%
	Weighting Factor	0.15	0.15	0.15	0.1	0.1	0.1	0.1	0.15

APPENDIX III

CRITERIA AND PROCEDURES FOR DESIGNATION OF SOx EMISSION CONTROL AREAS

(Regulation 14)

1 OBJECTIVES

1.1 The purpose of this appendix is to provide the criteria and procedures for the designation of SOx Emission Control Areas. The objective of SOx Emission Control Areas is to prevent, reduce, and control air pollution from SOx emissions from ships and their attendant adverse impacts on land and sea areas.

1.2 A SOx Emission Control Area should be considered for adoption by the Organization if supported by a demonstrated need to prevent, reduce, and control air pollution from SOx emissions from ships.

2 PROPOSAL CRITERIA FOR DESIGNATION OF A SOx EMISSION CONTROL AREA

2.1 A proposal to the Organization for designation of a SOx Emission Control Area may be submitted only by contracting States to the Protocol of 1997. Where two or more contracting States have a common interest in a particular area, they should formulate a coordinated proposal.

2.2 The proposal shall include:

.1 a clear delineation of the proposed area of application of controls on SOx emissions from ships, along with a reference chart on which the area is marked;

.2 a description of the land and sea areas at risk from the impacts of ship SOx emissions;

.3 an assessment that SOx emissions from ships operating in the proposed area of application of the SOx emission controls are contributing to air pollution from SOx, including SOx deposition, and their attendant adverse impacts on the land and sea areas under consideration. Such assessment shall include a description of the impacts of SOx emissions on terrestrial and aquatic ecosystems, areas of natural productivity, critical habitats, water quality, human health, and areas of cultural and scientific significance, if applicable. The sources of relevant data including methodologies used, shall be identified;

.4 relevant information pertaining to the meteorological conditions in the proposed area of application of the SOx emission controls and the land and sea areas at risk, in particular prevailing wind patterns, or to topographical, geological, oceanographic, morphological, or other conditions that may lead to an increased probability of higher localized air pollution or levels of acidification;

.5 the nature of the ship traffic in the proposed SOx Emission Control Area, including the patterns and density of such traffic; and

.6 a description of the control measures taken by the proposing contracting State or contracting States addressing land-based sources of SOx emissions affecting the area at risk that are in place and operating concurrent with the consideration of measures to be adopted in relation to provisions of regulation 14 of Annex VI of the present Convention.

2.3 The geographical limits of an SOx Emission Control Area will be based on the relevant criteria outlined above, including SOx emission and deposition from ships navigating in the proposed area, traffic patterns and density, and wind conditions.

2.4 A proposal to designate a given area as an SOx Emission Control Area should be submitted to the Organization in accordance with the rules and procedures established by the Organization.

3 PROCEDURES FOR THE ASSESSMENT AND ADOPTION OF SOx EMISSION CONTROL AREAS BY THE ORGANIZATION

3.1 The Organization shall consider each proposal submitted to it by a contracting State or contracting States.

3.2 A SOx Emission Control Area shall be designated by means of an amendment to this Annex, considered, adopted and brought into force in accordance with article 16 of the present Convention.

3.3 In assessing the proposal, the Organization shall take into account the criteria which are to be included in each proposal for adoption as set forth in section 2 above, and the relative costs of reducing sulphur depositions from ships when compared with land-based controls. The economic impacts on shipping engaged in international trade should also be taken into account.

4 OPERATION OF SOx EMISSION CONTROL AREAS

4.1 Parties which have ships navigating in the area are encouraged to bring to the Organization any concerns regarding the operation of the area.

APPENDIX IV

TYPE APPROVAL AND OPERATING LIMITS FOR SHIPBOARD INCINERATORS

(Regulation 16)

1 Shipboard incinerators described in regulation 16(2) shall possess an IMO type approval certificate for each incinerator. In order to obtain such certificate, the incinerator shall be designed and built to an approved standard as described in regulation 16(2). Each model shall be subject to a specified type approval test operation at the factory or an approved test facility, and under the responsibility of the Administration, using the following standard fuel waste specification for the type approval test for determining whether the incinerator operates within the limits specified in paragraph (2) of this appendix:

Sludge Oil Consisting of:	75% SLUDGE OIL FROM HFO; 5% WASTE LUBRICATING OIL; and 20% EMULSIFIED WATER.
Solid Waste consisting of:	50% Food Waste 50% Rubbish Containing Approx. 30% Paper, " 40% Cardboard, " 10% Rags, " 20% Plastic The mixture will have up to 50% moisture and 7% incombustible solids.

2 Incinerators described in regulation 16(2) shall operate within the following limits:

O_2 in Combustion Chamber:	6 - 12%
CO in Flue Gas Maximum Average:	200 mg MJ
Soot Number Maximum Average:	BACHARACH 3 or RINGELMAN 1 (20% opacity) (A higher soot number is acceptable only during very short periods such as starting up)
Unburned Components in Ash Residues:	Maximum 10% by Weight
Combustion Chamber Flue Gas Outlet Temperature Range:	850 - 1200 degrees Celsius

APPENDIX V

INFORMATION TO BE INCLUDED IN THE BUNKER DELIVERY NOTE
(Regulation 18(3))

Name and IMO Number of receiving ship

Port

Date of commencement of delivery

Name, address, and telephone number of marine fuel oil supplier

Product name(s)

Quantity in metric tons

Density at 15° C, kg/m^3

Sulphur content (%m/m)

A declaration signed and certified by the fuel oil supplier's representative that the fuel oil supplied is in conformity with regulation 14 (1) or (4)(a) and regulation 18(1) of this Annex.

CERTIFIED TRUE COPY of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships. 1973, as modified by the Protocol of 1978 relating thereto, done at London on 26 September 1997, the original of which is deposited with the Secretary-General of the International Maritime organization.

COPIE CERTIFIÉE CONFORME du Protocole de 1997 modifiant la Convention internationale de 1973 pour la prévention de la pollution par les navires, telle que modifiée par le Protocole de 1978 y relatif, fait à Londres le 26 septembre 1997, dont l'exemplaire original est déposé auprés du Secrétaire général de l'Organisation maritime internationale.

COPIA AUTÉNTICA CERTIFICADA del Protocolo de 1997 que enmienda el Conventio internacional para prevenir la contaminación por los buques, 1973, modificado por el Protocolo de 1978, hecha en Londres el 26 de septiembre de 1997, cuyo original se ha depositado ante el Secretario General de la Organización Marítima Internacional.

For the Secretary-General of the International Maritime Organization:

Pour le Secrétaire général de l'Organisation maritime internationale:

Por el Secretario General de la Organización Marítima Internacional:

London,

Londres, le

Londres,

Latin American Agreement on Port State Control, Viña del Mar, 1992

Done at Viña del Mar 2 November 1992

Primary source citation: Copy of text provided by the United Nations

The Maritime Authorities of

Argentina
Brazil
Chile
Colombia
Ecuador
Mexico
Panama
Peru
Uruguay
Venezuela

hereinafter referred to as "THE MARITIME AUTHORITIES",

RECOGNIZING the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources,

AWARE that the objectives of the Operative Regional Co-operation Network of Maritime Authorities of South America, Mexico and Panama (ROCRAM) are consistent therewith, as is indicated by its Strategy 1990-2000 for the protection of the marine environment, adopted in 1989, and by other regional resolutions,

NOTING that paragraph 63 of the above-mentioned Strategy of ROCRAM considers the adoption of measures tending towards the adoption of an effective system of ship control and the development of a co-ordinated inspection system,

TAKING NOTE of the recommendations of the heads of ship inspection departments of the Maritime Authorities of Latin America, and their representatives, meeting in Panama in 1991 and in Uruguay in 1992,

TAKING INTO ACCOUNT the recommendations of the heads of legal departments of the Maritime Authorities of Latin America, meeting in Colombia in 1992,

APPRECIATING the agreements on the subject reached in the International Maritime Organization (IMO) which emphasize the primary responsibility of the Maritime Authorities in the effective implementation of international standards on ships flying their flag and which, at the same time, recognize the need for effective action by port States in order to prevent the operation of defective ships,

RECOGNIZING that, by resolution A.682(17), adopted in November 1991, the IMO Assembly invited Governments to conclude regional agreements on the application of port State control measures,

RECOGNIZING ALSO that it is necessary to avoid differences in the treatment given to ships as between one port and another and that this might lead to the distortion of competition between ports,

CONVINCED that it is necessary for this purpose to establish an effective and harmonious system of port State control and to strengthen collaboration and the interchange of information,

Have agreed to adopt the following LATIN AMERICAN AGREEMENT ON PORT STATE CONTROL (hereinafter referred to as "the Agreement")

Section 1: Commitments

1.1 Each Maritime Authority, within the field of its legal jurisdiction, undertakes to give effect to the provisions of the present Agreement and of its annexes which constitute an integral part of the Agreement.

1.2 Each Maritime Authority will maintain an effective system of port State control with a view to ensuring that, without discrimination as to flag, foreign ships visiting the ports of its State comply with the standards laid down in the relevant instruments as defined in section 2.

1.3 Each Maritime Authority will endeavour, within a period of three years from the entry into force of this Agreement, to achieve a minimum level of inspections corresponding to 15% of the various foreign ships, hereinafter referred to as "ships", which entered the ports of its State during a recent representative period of 12 months.

1.4 Each Maritime Authority will consult, co-operate and exchange information with the other Maritime Authorities in order to further the aims of the Agreement.

Section 2: Relevant instruments

2.1 For the purposes of the Agreement, the "relevant agreements" are the following international conventions and their respective amendments in force:

- International Convention on Load Lines, 1966 (LOAD LINES 1966);
- International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974);
- Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 1978);
- International Convention for the Prevention for Pollution from Ships, 1973, amended by the Protocol of 1978 (MARPOL 73/78);
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978); and
- Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 1972).

2.2 Each Maritime Authority will apply those relevant instruments which are in force and to which its State is a party. In the case of amendments to a relevant instrument, each Maritime Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be a relevant instrument for that Maritime Authority.

2.3 In applying the requirements of a relevant instrument for the purposes of port State control, the Maritime Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a State which is not a party to that instrument.

2.4 In the case of ships below 500 tons gross tonnage, the Maritime Authorities will apply those provisions of the relevant instruments which are applicable and will, to the extent that a relevant instrument does not apply, adopt such measures as may be necessary to ensure that those ships are not clearly hazardous to safety or the environment, having regard in particular to Annex 1.

Section 3: Procedures for inspection, rectification and detention

3.1 In fulfilling their commitments, the Maritime Authorities will carry out inspections which will consist of a visit on board a ship in order to check the certificates and documents relevant for the purposes of the Agreement. In the absence of valid certificates or documents or if there are clearly grounds for believing that the ship, its equipment or its crew do not substantially meet the requirements of a relevant instrument, a more detailed inspection will be carried out. It is necessary that Maritime Authorities include compliance with on-board operational requirements in their control procedures. Inspections will be carried out in accordance with Annex 1.

3.2 Reasons and procedures for more detailed inspections

3.2.1 The Maritime Authorities will regard as "clear grounds", inter alia, the following:

- A report or notification by another Maritime Authority;
- A report of complaint by the master, a crew member or any person or organization with an interest in the safe operation of the ship or in the prevention of pollution, unless the Maritime Authority concerned deems the report or complaint to be manifestly unfounded;
- Other indications of serious deficiencies (having particular regard to Annex 1).

3.2.2 For the purpose of control on compliance with on-board operational requirements, the following may be "clear grounds":

- Evidence of operational shortcomings revealed during port State control procedures in accordance with SOLAS 1974, MARPOL 73/78 and STCW 1978;
- Evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines;
- Involvement of the ship in incidents due to failure to comply with operational requirements;
- Evidence, from the witnessing of a fire and/or abandon ship drill, that the crew are not familiar with essential procedures;
- Absence of an up-to-date muster list;
- Indications that key crew members may not be able to communicate with each other or with other persons on board.

3.2.3 Nothing in the above provisions should be construed as restricting the powers of the Maritime Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.

3.3 In selecting ships for inspection, the Maritime Authorities will pay special attention to:

- Passenger ships, roll-on roll-off ships and grain carriers;
- Ships which may present a special hazard, for example, oil tankers, gas carriers, chemical tankers and ships carrying dangerous and/or harmful substances and goods in packaged form;
- Ships which have had several recent deficiencies.

3.4 The Maritime Authorities will seek to avoid inspecting ships which have been inspected by any of the other Maritime Authorities within the previous six months, unless there are clear grounds for inspection. The frequency of inspection does not apply to the ships referred to in paragraph 3.3 of the Agreement, in which case the Maritime Authorities will seek to implement it whenever they deem this appropriate.

3.5 Inspections will be carried out by properly qualified persons authorized for that purpose by the Maritime Authority, bearing in mind the qualifications of the surveyor given in Annex 5.

3.6 Each Maritime Authority will endeavour to ensure that deficiencies detected are rectified.

3.7 In the case of deficiencies which are clearly hazardous to safety or the environment, the Maritime Authority will, except as provided in paragraph 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea and for this purpose will take appropriate action, which may include detention. The Maritime Authority will, as soon as possible, notify the flag State through its Consul or, in the latter's absence, its nearest diplomatic representative or its Maritime Authority of the action taken. Where the certifying authority is a body other than a maritime administration, the former will also be advised.

3.8 Where deficiencies referred to in paragraph 3.7 cannot be remedied in the port of inspection, the Maritime Authority may allow the ship to proceed to another port, subject to any appropriate conditions determined by that Maritime Authority with a view to ensuring that the ship can so proceed without unreasonable danger to safety or the environment. In such circumstances, the Maritime Authority will notify the competent Maritime Authority of the State in the region where the next port of call of the ship is situated, the parties mentioned in paragraph 3.7 and any other authority it may deem appropriate. Notification to Maritime Authorities will be made in accordance with Annex 2. The Maritime Authority receiving such notification will inform the notifying Maritime Authority of action taken.

3.9 The provisions of paragraphs 3.7 and 3.8 are without prejudice to the application of the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.

3.10 The Maritime Authorities will ensure that, on the conclusion of an inspection, the master is provided with a document, in the form specified in Annex 3, giving the results of the inspection and details of any action taken.

3.11 When exercising control under the Agreement, the Maritime Authorities will make every effort to avoid unduly detaining or delaying a ship. Nothing in the Agreement affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

Section 4: Provision of information

Each Maritime Authority will report on its inspections and their results, in accordance with the procedures specified in the Agreement.

Section 5: Operational violations

The Maritime Authorities will, upon the request of another Maritime Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of rule 10 of the International Regulations for Preventing Collisions at Sea, 1972, and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978. In the case of suspected violations involving the discharge of harmful substances, a Maritime Authority will, upon the request of another Maritime Authority, visit in port the ship suspected of such a violation in order to obtain information and where appropriate to take a sample of any alleged pollutant.

Section 6: Organization

6.1 A Committee will be established, composed of a representative of each of the Maritime Authorities that are parties to the Agreement. An observer from the Secretariat of ROCRAM and from the International Maritime Organization will be invited to participate in the work of the Committee.

6.2 The Committee will meet over a year and at such other times as it may deem appropriate.

6.3 The Committee will:

- prepare and adopt its rules of procedure, together with those of the Secretariat and the Information Centre;
- carry out the specific tasks assigned to it under the Agreement;
- promote by all means it considers necessary, including seminars for surveyors, the harmonization of procedures and practices relating to inspection, rectification, detention and the application of paragraph 2.3;
- develop and review guidelines for carrying out inspections under the Agreement;
- develop and review procedures for the exchange of information;
- keep under constant review other matters relating to the operation and effectiveness of the Agreement.

6.4 A Secretariat provided by the Maritime Authority of Argentina will be set up and have its headquarters in Buenos Aires.

6.5 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:

- organize meetings, circulate documents and provide assistance to the Committee to enable it to carry out its functions;
- be responsible for the operation of the Information Centre;
- facilitate the exchange of information, carry out the procedures described in Annex 4 and prepare reports as may be necessary for the operation of the Agreement;
- carry out such other tasks as may be necessary to ensure the effective operation of the Agreement.

Section 7: Amendments

7.1 Any Maritime Authority may propose amendments to the Agreement.

7.2 The procedure indicated below will apply to amendments to sections of the Agreement:

(a) The proposed amendments will be distributed to the Maritime Authorities, through the Secretariat, prior to consideration by the Committee;

(b) Amendments will be adopted by a two-thirds majority of the representatives of the Maritime Authorities present and voting in the Committee. If so adopted, an amendment will be communicated by the Secretariat to the Maritime Authorities for acceptance;

(c) An amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Maritime Authorities in the Committee or at the end of a different period determined unanimously by the representatives of the Maritime Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by a Maritime Authority.

(d) an amendment will enter into force 60 days after it has been accepted or at the end of any other period determined unanimously by the representatives of the Maritime Authorities in the Committee.

7.3 The procedure indicated below will be applied for the amendment of an Annex to the Agreement:

(a) The proposed amendment will be submitted through the Secretariat for consideration by the Maritime Authorities;

(b) The amendment will be deemed to have been accepted at the end of a period of six months from the date on which it has been communicated by the Secretariat unless a Maritime Authority submits an objection or requests in writing that the amendment should be considered by the Committee; in both cases the procedure specified in paragraph 7.2 will apply;

(c) The amendment will enter into force 60 days after it has been accepted or at the end of any different period determined unanimously by the Maritime Authorities.

Section 8: Adoption and Signature of the Agreement

8.1 The Agreement is without prejudice to rights and obligations under any international convention.

8.2 A Maritime Authority of another State may, with the consent of the Maritime Authorities participating in the Agreement, accede to the Agreement. For such a Maritime Authority, the Agreement will take effect upon such date as may be mutually agreed.

8.3 The official languages of this Agreement will be Spanish and Portuguese.

Section 9: Entry into force

This Agreement will enter into force for each Maritime Authority on the date duly notified to the Secretariat of ROCRAM.

Adopted by resolution No.5(VI) of ROCRAM on the fifth day of November 1992, during the VIth Meeting held at Viña del Mar, Chile, the original of which is deposited with the Secretariat of the Network.

MARITIME AUTHORITIES OF ROCRAM SIGNATORIES* TO THE LATIN AMERICAN AGREEMENT ON PORT STATE CONTROL

Argentina
Brazil
Chile
Colombia
Ecuador
Mexico
Panama
Peru
Uruguay
Venezuela

*Signatures omitted.

ANNEXES

TO THE LATIN AMERICAN AGREEMENT ON PORT STATE CONTROL

VIÑA DEL MAR AGREEMENT

ANNEX 1: GUIDELINES FOR SURVEYORS

ANNEX 2: EXCHANGE OF MESSAGES BETWEEN STATES OF THE REGION IN ACCORDANCE WITH PARAGRAPH 3.8 OF THE AGREEMENT

ANNEX 3: INSPECTION REPORT

ANNEX 4: INFORMATION SYSTEM OF THE AGREEMENT
(Appendices 1 and 2)

ANNEX 5: QUALIFICATIONS OF THE SURVEYOR

ANNEX 6: TRANSITIONAL PROVISIONS

ANNEX 1

GUIDELINES FOR SURVEYORS

Summary

Section 1: GENERAL

1.1 Guidelines to be observed in the inspection of foreign ships

1.2 Principles governing rectification of deficiencies or detention of a ship

1.3 Application of the "no more favourable treatment" clause

Section 2: THE SAFETY OF THE SHIP IN ACCORDANCE WITH SOLAS 1974, SOLAS PROT 1978, LOAD LINES 1966, COLREG 1972 AND MARPOL 73/78

2.1 More detailed inspection

Section 3: MINIMUM MANNING STANDARDS AND CERTIFICATION

3.1 Introduction

3.2 Manning control

3.3 Certification control

3.4 Detention

Section 4: SHIPS OF LESS THAN 500 TONS GROSS TONNAGE

Section 1: GENERAL

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in paragraph 3.1 of the Agreement refer to the procedures set forth in this Annex and to the following IMO provisions:

- Procedures for the Control of Ships (resolution A.466(XII)), as amended).
- Principles of Safe Manning (resolution A.481(XII)) and Annexes, Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2).
- Procedures for the Control of Ships and Discharges under Annex I of MARPOL 73/78 (resolution A.542(13)).
- Procedures for the control of ships and discharges under Annex II of MARPOL 73/78 (resolution MEPC.26(23)).
- The provisions of the International Maritime Dangerous Goods Code.
- Procedures for the Control of Operational Requirements (resolution A.681(17)).

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision to have a deficiency rectified or to detain a ship, the surveyor shall take into consideration the results of the detailed inspection carried out in accordance with section 3.

The surveyor shall exercise his professional judgement in determining whether to detain the ship until the deficiencies are corrected or to allow it to sail with certain deficiencies without unreasonable danger to safety or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards, the special procedures set out in section 3 shall be observed.

1.3 Application of the "no more favourable treatment" clause

In applying section 2 of the Agreement, paragraph 2.3, the following shall be observed:

Ships flying the flag of a State which is not a party to a relevant instrument listed in section 2, and which are thus not provided with certificates representing prima facie evidence of satisfactory conditions on board, shall receive a detailed inspection. In making such an inspection the surveyor should follow the same guidelines as provided for ships to which the relevant instruments are applicable. The condition of the ship and its equipment, and the certification, number and composition of its crew shall be compatible with the aims of the provisions of the relevant instruments. Otherwise the ship shall be subject to any measures necessary to enable it to achieve an equivalent level of safety.

Section 2: THE SAFETY OF THE SHIP AS RELATED TO SOLAS 1974, SOLAS PROT 1978, LOAD LINES 1966, COLREG 1972 AND MARPOL 73/78

2.1 More detailed inspection

In so far as there are clear grounds for a more detailed inspection relating to the provisions of the SOLAS Convention and its Protocol, the Load Line Convention, the Convention on the Collision Regulations and MARPOL 73/78, the surveyor when carrying out this inspection shall take into account the recommendations made in IMO resolution A.466(XII), Procedures for the Control of Ships, as amended by IMO resolution A.597(15), the Procedures for the Control of Ships and Discharges under Annex I of MARPOL 73/78

(IMO resolution A.542(13)), the Procedures for the Control of Ships and Discharges under Annex II of MARPOL 73/78 (IMO resolution MEPC.26(23)), the Procedures for the Control of Operational Requirements (IMO resolution A.681(17)) and the provisions of the International Maritime Dangerous Goods Code.

Section 3: MINIMUM MANNING STANDARDS AND CERTIFICATION

3.1 Introduction

The guiding principle for port State inspection of the manning of a foreign ship should be to establish conformity with the flag State's safe manning requirements. Where this is in doubt the flag State should be consulted. Such safe manning requirements stem from:

- International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974);
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978);
- Contents of the Minimum Safety Manning Document (IMO resolution A.481(XII), Annex 1);
- Guidelines for the Application of Principles of Safe Manning (IMO resolution A.481(XII), Annex 2).

Detention as port State action shall only take place on the grounds laid down in the relevant instruments and used in conjunction with advice from the flag State. Where such response is not readily forthcoming, and the extent of the manning deficiency is such as to render the ship clearly unsafe for the intended voyage or service, detention is the only resort.

3.2 Manning control

3.2.1 If a ship is manned in accordance with the safe manning document or an equivalent document issued by the flag State, the surveyor should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and the IMO Guidelines for the Application of Principles of Safe Manning; in this last case, the surveyor should act according to the procedures defined in paragraph 3.2.3.

3.2.2 If the number or composition of the crew does not conform to the manning document, the port State should request the flag State for advice as to whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible. The reply, if any, from the flag State should be confirmed by telex or fax. If the number and composition of the crew does not conform to the safe manning document, or if the flag State does not advise that the ship could sail in that condition, the ship may be detained after the criteria set out in paragraph 3.4 of this annex have been taken into account.

3.2.3 If the ship does not carry a safe manning document or equivalent, the port State should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible.

In case the number and composition of the crew does not conform to the specifications received from the flag State, the procedure as laid down in paragraph 3.2.2 shall be applied. If the flag State does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1. The ship shall only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4.

In no case shall the minimum standards to be applied be more strict than those applied to ships flying the flag of the port State. The lack of a safe manning document shall be reported as deficiency.

3.3 Certification control

3.3.1 General certification control on ships should be carried out in accordance with the procedures stipulated in article X and in regulation 1/4 of STCW 1978.

3.3.2 Certification control on ships engaged in the carriage of hazardous liquid cargo in bulk should be more stringent. The surveyor should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having had the appropriate training and experience. No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified.

With regard to appropriate training, chapter V of STCW 1978, resolutions 10, 11 and 12 adopted by the International Conference on Training and Certification of Seafarers, 1978, and the relevant sections of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk should be taken into account.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

- length and nature of the intended voyage or service;
- whether or not the deficiency poses a danger to ship, persons on board or the environment;
- whether or not appropriate rest periods of the crew can be observed;
- size and type of ship and equipment provided;
- nature of the cargo.

The absence of a deck or engineer officer required to be certificated should not be grounds for detention where the absence is in accordance with any exceptional provisions approved by the flag State.

Section 4: SHIPS OF LESS THAN 500 TONS GROSS TONNAGE

4.1 The following is a guide for the application of paragraph 2.4 of the Agreement.

4.2 Even where a relevant instrument is not applicable to a ship of less than 500 tons gross tonnage, the surveyor's task will be to assess whether the ship is of an acceptable standard in regard to safety or the environment. In making that assessment the surveyor shall take into account factors such as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

4.3 In the exercise of his functions under paragraph 4.2 the surveyor should be guided by any certificates and other documents issued by the flag State. In the light of his analysis of such certificates and documents and of his general impression of the ship, the surveyor will use his professional judgement in deciding whether and in what respects the ship shall be subjected to a more detailed inspection, taking into account the factors mentioned in paragraph 4.2. When carrying out a more detailed inspection the surveyor shall, to the extent he deems necessary, pay attention to the items listed in paragraph 4.4. The list is not exhaustive but serves as an example of the most important items.

4.4 Items of general importance

4.4.1 Items related to the conditions of assignment of load lines:

- weathertight (or watertight as the case may be) integrity of exposed decks;

- hatches and closing appliances;
- weathertight closures to openings in superstructures;
- freeing arrangements;
- side outlets;
- ventilators and air pipes;
- stability information.

4.4.2 Other items related to the safety of life at sea:

- life-saving appliances;
- fire-fighting appliances;
- structural conditions (hull, deck, hatch covers, etc.);
- main machinery and electrical installations;
- navigational equipment including radio installations.

4.4.3 Items related to the prevention of pollution from ships:

- means for the control of discharge of oil and oily mixtures, e.g. oily water separating or filtering equipment or other equivalent means (tanks for retaining oil, oily mixtures, oil residues);
- means for the disposal of oil, oily mixtures or oil residues;
- presence of oil in the engine-room bilges.

4.5 In the case of deficiencies which are considered hazardous to safety or the environment, the surveyor shall take action, which may include detention if necessary, having regard to the factors mentioned in paragraph 4.2, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety or the environment.

ANNEX 2

EXCHANGE OF MESSAGES BETWEEN STATES OF THE REGION IN ACCORDANCE WITH PARAGRAPH 3.8 OF THE AGREEMENT

1 In the case of deficiencies not fully rectified or only provisionally repaired, a message shall be sent to the competent Maritime Authority of the State of the region where the next port of call of the ship is situated.

2 The exchange of messages mentioned in paragraph 1 of this Annex shall be made using the communication facilities incorporated in the information system described in Annex 4.

3 Each message shall contain the following information:

- IMO identification number;
- Name of ship;
- Type of ship;
- Flag of ship;
- Call sign;
- Gross register tonnage;
- Year of build;
- Sailing from (country);
- Port;
- Date of sailing;
- Bound for (country);
- Port;
- Estimated date of arrival;
- Date of inspection;
- Deficiencies to be rectified;
- A statement specifying:
- Nature of deficiencies;
- Suggested action to rectify the deficiency;
- Name of sender.

4 Where deficiencies giving rise to delay to or detention of a ship flying the flag of one of the States parties to this Agreement are detected, the Maritime Authority of the port State will send a copy of the report referred to in Annex 3 of the Agreement to the Administration of the State of the ship's flag.

Annex 3: Inspection report

(reverso formulario B)
(back of form B)

CODIGO PARA MEDIDAS ADOPTADAS
CODES FOR ACTION TAKEN

Código *Code*	
00	no se adoptaron *no action taken*
10	deficiencias subsanadas *deficiency rectified*
12	todas las deficiencias subsanadas *all deficiencies rectified*
15	deficiencias a ser subsanadas en el próximo puerto *deficiencies to be rectified at next port*
16	deficiencias a ser subsanadas en un plazo de 14 días *rectify deficiencies within 14 days*
17	el capitán instruido para subsanar las deficiencias antes del zarpe *master instructed to rectify deficiencies before departure*
20	buque demorado para subsanar deficiencias *ship delayed to rectify deficiencies*
25	buque autorizado a zarpar después de la demora *ship allowed to sail after delay*
30	buque retenido *ship detained*
35	retención suspendida (indique fecha) *detention suspended (+specify date)*
40	próximo puerto informado *next port informed*
50	Estado de bandera/Cónsul informado flag *State/Consul informed*
55	Estado de bandera consultado *flag State consulted*
60	Estado de la región informado *region State informed*
70	sociedad de clasificación informada *classification society informed*
90	substitución temporal del equipo *temporary substitution of equipment*
85	investigación de una transgresión a exigencias de descarga (MARPOL 73/78) *investigation of violations of discharge provisions (MARPOL 73/78)*
99	otros (especificar en un lenguaje claro) *others (specify in clear text)*

FORMULARIO B
FORM B

Autoridad expedidora *(Issuing authority)*
Dirección *(Address)*
Teléfono *(Phone)*
Fax
Telex

Copia oficina central *(copy head office)*
Copia Estado pabellón *(flag state copy)*
Copia OMI *(IMO copy)*
Copia Capitán *(Master's copy)*
Copia Inspector *(Surveyor's copy)*

INFORME DE INSPECCION
INSPECTION REPORT

1 Nombre de la autoridad expedidora
Name of issuing authority.....

.....

2 Nombre del buque
Name of ship

5 Distintivo de llamada
Call sign .....

9 Fecha de inspección
Date of inspection

10 Lugar de inspección
Place of inspection.....

16 Naturaleza de la deficiencia *Nature of deficiency*	Ref. a (1) convenios *References (1)*	Medidas adoptadas (2) *Action taken (2)*
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Nombre
Name.....
Inspector debidamente autorizado de (la autoridad expedidora)
Duly authorized surveyor of (issuing authority)
Firma
Signature.....

(1) Se cumplimentarán en caso de detención: S (SOLAS), M (MARPOL), LL (Líneas de carga), etc.
To be utilized in case of detention: S (SOLAS), M (MARPOL), LL (Load Lines), etc.

(2) Entre dichas medidas cabe citar, por ejemplo: buque retenido/liberado; Estado de abanderamiento informado, sociedad de clasificación informada, siguiente puerto do escala informado (véanse las claves al dorso de la copia).
Among such measures the following may he considered: detained / released ship, flag State informed, classification society informed, next port-of-call informed (see codes on the back of this form)

FORMULARIO A *FORM A*

Autoridad expedidora *(issuing authority)*
Dirección *(address)*
Teléfono *(phone)*
Fax
Telex

Copia oficina central *(copy head office)*
Copia Estado pabellón *(flag State copy)*
Cori& OMI *(IMO copy)*
Copia Capitán *(Masters copy)*
Copia Inspector *(Surveyors copy)*

INFORME DE INSPECCION
Inspection Report

1 Nombre de la autoridad expedidora
Name of issuing authority .....

2 Nombre del buque
Name of ship .....

3 Pabellón del buque
Flag of ship .....

4 Tipo del Buque
Type of ship .....

5 Distintivo de llamada
Call sign .....

6 Número OMI
IMO number .....

7 Arqueo bruto
Gross tonnage .....

8 Año de construcción
Year of build .....

9 Fecha de la inspección
Date of inspection .....

10 Lugar de la inspección
Place of inspeccion .....

11 Sociedad de classificación
Classification society .....

12 Certificado(s) pertinente(s)
Relevant certificates

a) Titulo *Title*	b) Autoridad expedidora *Issuing authority*	c) Fecha de expedición y expiración *Issue and expiration dates*
1	.....	.....
2	.....	.....
3	.....	.....
4	.....	.....
5	.....	.....
6	.....	.....
7	.....	.....
8	.....	.....
9	.....	.....
10	.....	.....
11	.....	.....

d) Fechas de los reconocimientos anuales intermedios
Dates of annual or intermediate surveys

Fecha *Date*	Autoridad que efectuó el reconocimient o *Authority who performed the survey*	Lugar ..... *Place*
1	.....	.....
2	.....	.....
3	.....	.....
4	.....	.....
5	.....	.....
6	.....	.....
7	.....	.....
8	.....	.....
9	.....	.....
10	.....	.....
11	.....	.....

13	Deficiencia *Deficiency*	[ ] no *no*	[ ] sí (véase formulario B) *yes (see form B)*	[ ] contaminación marina *(marine pollution)*
14	Buque retenido *Ship retained*	[ ] no *no*	[ ] sí *yes*	
15	Documentación justificativa *Support documents*	[ ] no *no*	[ ] sí (véase anexo) *yes (see annex)*	[ ] seguridad marítima *maritime safety*

Oficina regional *(regional office)*
Teléfono *(phone)*
Fax
Telex

Nombre (*Name*) .....
Inspector debidamente autorizado de (la autoridad expedidora)
Duly authorized surveyor of (issuing authority)
Firma (*Signature*) .....

ANNEX 4

INFORMATION SYSTEM OF THE AGREEMENT

1 To assist Maritime Authorities in their selection of foreign flag ships to be inspected in their ports, Maritime Authorities must have up-to-date information available on inspections of an individual foreign flag ship in any other ports in the region.

2 For the purposes of the preceding paragraph a Centro de Información del Acuerdo Latinoamericano [Latin American Agreement Information Centre] (CIALA) shall be established whose purpose and functions are defined in appendix 1 of this Annex. The CIALA, which will be administratively responsible to the Secretariat of the Agreement, shall be located in Argentina.

3 The Maritime Authorities undertake to provide the CIALA, preferably by means of a computerized data communications system, with information on ships inspected in the national ports, on the basis of the information in Annex 3 of the Agreement. This information should preferably be input on a daily basis. The Authorities will have easy and rapid access to all the information contained in the inspection archives, free of charge for the information itself, and shall be able to obtain a copy of part or all of the information when they wish.

4 To facilitate rapid communication between the different Maritime Authorities of Latin America and with other regions of the world, including the notification referred to in section 3, paragraph 3.8 of the Agreement, and information on operational violations indicated in section 4 of the Agreement, the CIALA system shall be connected to a commercial electronic mail system enabling the electronic exchange of data by messages based on the codes and logical structure established in the United Nations standard on Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT) laid down in the Trade Data Elements Directory (TDED) and the Trade Data Interchange Directory (TDID).

5 The CIALA will handle the information indicated in paragraphs 3 and 4 of this Annex in accordance with the standard procedures specified in the User Guide of the information system.

6 The CIALA will ensure that the information mentioned in paragraph 3 is readily accessible for consultation, updating and transfer in accordance with the procedures specified in the User Guide of the information system.

7 Fax and, if appropriate, telex will be alternative means for information exchange using the formats set out in Annex 2 and in appendix 2 to this Annex.

8 The CIALA will carry out evaluations with a view to optimizing the administration of its resources on a permanent basis. Similarly, where necessary, it shall make proposals for improvements to the information and data communication system to the Secretariat.

9 The information system will be implemented as long as the Agreement is in force.

Appendix 1

PURPOSE AND FUNCTIONS OF THE LATIN AMERICAN AGREEMENT INFORMATION CENTRE (CIALA)

PURPOSE:

To develop and maintain an information and data communications system in order to promote the purposes of the Agreement with respect to its information requirements.

FUNCTIONS:

1 To develop and maintain computer applications related to inspections and the communication of data on the Agreement.

2 To administer the databases of the system.

3 To ensure the integrity and security of the data of the system.

4 To maintain the hardware, software and data communications equipment of the system in optimum operating condition.

5 To provide up-to-date information required by the Committee, the Secretariat and users of the Agreement.

6 To provide functional technical support to users of the Agreement.

7 To establish the operational and administrative procedures of the system.

8 To advise the Secretariat with regard to information and communications development.

9 To keep information on ship inspections available for immediate access for a period of not less than two years.

Appendix 2

FAX AND TELEX FORMS FOR SHIPS INSPECTED*

Report of inspection

Issuing country:.....

Name of surveyor:.....

Ship data

1 IMO number.....

2 Name.....

3 Type.....

4 Flag.....

5 GMDSS or call sign.....

6 Gross register tonnage.....

7 Year of build.....

8 Date and place of inspection.....

9 Nature of deficiencies**.....

10 Action taken.....

.....

.....

.....

Identification of person responsible for the message

* The administrative heading of the form will be that used by each Maritime Authority.
** Including reference to the relevant instruments if shown on the document on board.

ANNEX 5

QUALIFICATIONS OF THE SURVEYOR

In view of the nature of the responsibilities of the ship surveyor, the following professional qualifications will be adopted:

- professional training equivalent to master, first officer or chief engineer officer, marine engineer, mechanical engineer or engineer in the maritime area;
- substantial on-board experience;
- in the case of inspections under MARPOL 73/78, SOLAS PROT 1978 or LOAD LINES 1966, the surveyor should have prior experience of inspections under similar conventions;
- appropriate medical fitness;
- age range of 35-55 years;
- command of the English language;
- earlier participation in training courses on international maritime conventions.

ANNEX 6

TRANSITIONAL ARRANGEMENTS

1 The Information Centre envisaged as provided in paragraph 2 of Annex 4 will come into operation in stages.

2 The Committee will hold its first meeting jointly with the next meeting of the Maritime Authorities of ROCRAM.

3 This Annex shall cease to be an integral part of the Agreement when so determined by the Committee.

Protocol for the Protection of the Mediterranean Sea Against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil, Pursuant to the Convention for the Protection of the Mediterranean Sea Against Pollution of 16 February 1976, Madrid, 1994

Done at Madrid 14 October 1994

Entered into force (not in force)

Depositary: Spain

Primary source citation: Copy of text provided by the United Nations

PREAMBLE

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

Bearing in mind Article 7 of the said Convention,

Bearing in mind the increase in the activities concerning exploration and exploitation of the Mediterranean seabed and its subsoil,

Recognizing that the pollution which may result therefrom represents a serious danger to the environment and to human beings,

Desirous of protecting and preserving the Mediterranean Sea from pollution resulting from exploration and exploitation activities,

Taking into account the Protocols related to the Convention for the Protection of the Mediterranean Sea against Pollution and, in particular, the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, adopted at Barcelona on 16 February 1976, and the Protocol concerning Mediterranean Specially Protected Areas, adopted at Geneva on 3 April 1982,

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties,

Recognizing the differences in levels of development among the coastal States, and taking account of the economic and social imperatives of the developing countries,

Have agreed as follows:

SECTION I — GENERAL PROVISIONS

Article 1 — DEFINITIONS

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;

(b) "Organization" means the body referred to in Article 13 of the Convention;

(c) "Resources" means all mineral resources, whether solid, liquid or gaseous;

(d) "Activities concerning exploration and/or exploitation of the resources in the Protocol Area" (hereinafter referred to as "activities") means:

(i) Activities of scientific research concerning the resources of the seabed and its subsoil;

(ii) Exploration activities:

— Seismological activities; surveys of the seabed and its subsoil; sample taking;
— Exploration drilling;

(iii) Exploitation activities:

— Establishment of an installation for the purpose of recovering resources, and activities connected therewith;
— Development drilling;
— Recovery, treatment and storage;
— Transportation to shore by pipeline and loading of ships;
— Maintenance, repair and other ancillary operations;

(e) "Pollution" is defined as in Article 2, paragraph (a), of the Convention;

(f) "Installation" means any fixed or floating structure, and any integral part thereof, that is engaged in activities, including, in particular:

(i) Fixed or mobile offshore drilling units;

(ii) Fixed or floating production units including dynamically-positioned units;

(iii) Offshore storage facilities including ships used for this purpose;

(iv) Offshore loading terminals and transport systems for the extracted products, such as submarine pipelines;

(v) Apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the seabed or its subsoil;

(g) "Operator" means:

(i) Any natural or juridical person who is authorized by the Party exercising jurisdiction over the area where the activities are undertaken (hereinafter referred to as the "Contracting Party") in accordance with this Protocol to carry out activities and/or who carries out such activities; or

(ii) Any person who does not hold an authorization within the meaning of this Protocol but is *de facto* in control of such activities;

(h) "Safety zone" means a zone established around installations in conformity with the provisions of general international law and technical requirements, with appropriate markings to ensure the safety of both navigation and the installations;

(i) "Wastes" means substances and materials of any kind, form or description resulting from activities covered by this Protocol which are disposed of or are intended for disposal or are required to be disposed of;

(j) "Harmful or noxious substances and materials" means substances and materials of any kind, form or description, which might cause pollution, if introduced into the Protocol Area;

(k) "Chemical Use Plan" means a plan drawn up by the operator of any offshore installation which shows:

(i) The chemicals which the operator intends to use in the operations;

(ii) The purpose or purposes for which the operator intends to use the chemicals;

(iii) The maximum concentrations of the chemicals which the operator intends to use within any other substances, and maximum amounts intended to be used in any specified period;

(iv) The area within which the chemical may escape into the marine environment;

(l) "Oil" means petroleum in any form including crude oil, fuel oil, oily sludge, oil refuse and refined products and, without limiting the generality of the foregoing, includes the substances listed in the Appendix to this Protocol;

(m) "Oily mixture" means a mixture with any oil content;

(n) "Sewage" means:

(i) Drainage and other wastes from any form of toilets, urinals and water-closet scuppers;

(ii) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

(iii) Other waste waters when mixed with the drainages defined above;

(o) "Garbage" means all kinds of food, domestic and operational waste generated during the normal operation of the installation and liable to be disposed of continuously or periodically, except those substances which are defined or listed elsewhere in this Protocol;

(p) "Freshwater limit" means the place in water courses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

Article 2 — GEOGRAPHICAL COVERAGE

1. The area to which this Protocol applies (referred to in this Protocol as the "Protocol Area") shall be:

(a) The Mediterranean Sea Area as defined in Article 1 of the Convention, including the continental shelf and the seabed and its subsoil;

(b) Waters, including the seabed and its subsoil, on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit.

2. Any of the Contracting Parties to this Protocol (referred to in this Protocol as "the Parties") may also include in the Protocol area wetlands or coastal areas of their territory.

3. Nothing in this Protocol, nor any act adopted on the basis of this Protocol, shall prejudice the rights of any State concerning the delimitation of the continental shelf.

Article 3 — GENERAL UNDERTAKINGS

1. The Parties shall take, individually or through bilateral or multilateral cooperation, all appropriate measures to prevent, abate, combat and control pollution in the Protocol Area resulting from activities, *inter alia* by ensuring that the best available techniques, environmentally effective and economically appropriate, are used for this purpose.

2. The Parties shall ensure that all necessary measures are taken so that activities do not cause pollution.

SECTION II — AUTHORIZATION SYSTEM

Article 4 — GENERAL PRINCIPLES

1. All activities in the Protocol Area, including erection on site of installations, shall be subject to the prior written authorization for exploration or exploitation from the competent authority. Such authority, before granting the authorization, shall be satisfied that the installation has been constructed according to international standards and practice and that the operator has the technical competence and the financial capacity to carry out the activities. Such authorization shall be granted in accordance with the appropriate procedure, as defined by the competent authority.

2. Authorization shall be refused if there are indications that the proposed activities are likely to cause significant adverse effects on the environment that could not be avoided by compliance with the conditions laid down in the authorization and referred to in Article 6, paragraph 3, of this Protocol.

3. When considering approval of the siting of an installation, the Contracting Party shall ensure that no detrimental effects will be caused to existing facilities by such siting, in particular, to pipelines and cables.

Article 5 — REQUIREMENTS FOR AUTHORIZATIONS

1. The Contracting Party shall prescribe that any application for authorization or for the renewal of an authorization is subject to the submission of the project by the candidate operator to the competent authority and that any such application must include, in particular, the following:

(a) A survey concerning the effects of the proposed activities on the environment; the competent authority may, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area, require that an environmental impact assessment be prepared in accordance with Annex IV to this Protocol;

(b) The precise definition of the geographical areas where the activity is envisaged, including safety zones;

(c) Particulars of the professional and technical qualifications of the candidate operator and personnel on the installation, as well as of the composition of the crew;

(d) The safety measures as specified in Article 15;

(e) The operator's contingency plan as specified in Article 16;

(f) The monitoring procedures as specified in Article 19;

(g) The plans for removal of installations as specified in Article 20;

(h) Precautions for specially protected areas as specified in Article 21;

(i) The insurance or other financial security to cover liability as prescribed in Article 27, paragraph 2 (b).

2. The competent authority may decide, for scientific research and exploration activities, to limit the scope of the requirements laid down in paragraph 1 of this Article, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area.

Article 6 — GRANTING OF AUTHORIZATIONS

1. The authorizations referred to in Article 4 shall be granted only after examination by the competent authority of the requirements listed in Article 5 and Annex IV.

2. Each authorization shall specify the activities and the period of validity of the authorization, establish the geographical limits of the area subject to the authorization and specify the technical requirements and the authorized installations. The necessary safety zones shall be established at a later appropriate stage.

3. The authorization may impose conditions regarding measures, techniques or methods designed to reduce to the minimum risks of and damage due to pollution resulting from the activities.

4. The Parties shall notify the Organization as soon as possible of authorizations granted or renewed. The Organization shall keep a register of all the authorized installations in the Protocol Area.

Article 7 — SANCTIONS

Each Party shall prescribe sanctions to be imposed for breach of obligations arising out of this Protocol, or for non-observance of the national laws or regulations implementing this Protocol, or for non-fulfilment of the specific conditions attached to the authorization.

SECTION III — WASTES AND HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

Article 8 — GENERAL OBLIGATION

Without prejudice to other standards or obligations referred to in this Section, the Parties shall impose a general obligation upon operators to use the best available, environmentally effective and economically appropriate techniques and to observe internationally accepted standards regarding wastes, as well as the use, storage and discharge of harmful or noxious substances and materials, with a view to minimizing the risk of pollution.

Article 9 — HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

1. The use and storage of chemicals for the activities shall be approved by the competent authority, on the basis of the Chemical Use Plan.

2. The Contracting Party may regulate, limit or prohibit the use of chemicals for the activities in accordance with guidelines to be adopted by the Contracting Parties.

3. For the purpose of protecting the environment, the Parties shall ensure that each substance and material used for activities is accompanied by a compound description provided by the entity producing such substance or material.

4. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex I to this Protocol is prohibited.

5. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent authority.

6. The disposal into the Protocol Area of all other harmful or noxious substances and materials resulting from the activities covered by this Protocol and which might cause pollution requires a prior general permit from the competent authority.

7. The permits referred to in paragraphs 5 and 6 above shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol.

Article 10 — OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

1. The Parties shall formulate and adopt common standards for the disposal of oil and oily mixtures from installations into the Protocol Area:

(a) Such common standards shall be formulated in accordance with the provisions of Annex V, A;

(b) Such common standards shall not be less restrictive than the following, in particular:

(i) For machinery space drainage, a maximum oil content of 15 mg per litre whilst undiluted;

(ii) For production water, a maximum oil content of 40 mg per litre as an average in any calendar month; the content shall not at any time exceed 100 mg per litre;

(c) The Parties shall determine by common agreement which method will be used to analyze the oil content.

2. The Parties shall formulate and adopt common standards for the use and disposal of drilling fluids and drill cuttings into the Protocol Area. Such common standards shall be formulated in accordance with the provisions of Annex V, B.

3. Each Party shall take appropriate measures to enforce the common standards adopted pursuant to this Article or to enforce more restrictive standards that it may have adopted.

Article 11 — SEWAGE

1. The Contracting Party shall prohibit the discharge of sewage from installations permanently manned by 10 or more persons into the Protocol Area except in cases where:

(a) The installation is discharging sewage after treatment as approved by the competent authority at a distance of at least four nautical miles from the nearest land or fixed fisheries installation, leaving the Contracting Party to decide on a case by case basis; or

(b) The sewage is not treated, but the discharge is carried out in accordance with international rules and standards; or

(c) The sewage has passed through an approved sewage treatment plant certified by the competent authority.

2. The Contracting Party shall impose stricter provisions, as appropriate, where deemed necessary, *inter alia* because of the regime of the currents in the area or proximity to any area referred to in Article 21.

3. The exceptions referred to in paragraph 1 shall not apply if the discharge produces visible floating solids or produces colouration, discolouration or opacity of the surrounding water.

4. If the sewage is mixed with wastes and harmful or noxious substances and materials having different disposal requirements, the more stringent requirements shall apply.

Article 12 — GARBAGE

1. The Contracting Party shall prohibit the disposal into the Protocol Area of the following products and materials:

(a) All plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags;

(b) All other non-biodegradable garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials.

2. Disposal into the Protocol Area of food wastes shall take place as far away as possible from land, in accordance with international rules and standards.

3. If garbage is mixed with other discharges having different disposal or discharge requirements, the more stringent requirements shall apply.

Article 13 — RECEPTION FACILITIES, INSTRUCTIONS AND SANCTIONS

The Parties shall ensure that:

(a) Operators dispose satisfactorily of all wastes and harmful or noxious substances and materials in designated onshore reception facilities, except as otherwise authorized by the Protocol;

(b) Instructions are given to all personnel concerning proper means of disposal;

(c) Sanctions are imposed in respect of illegal disposals.

Article 14 — EXCEPTIONS

1. The provisions of this Section shall not apply in case of:

(a) *Force majeure* and in particular for disposals:

— to save human life,
— to ensure the safety of installations,
— in case of damage to the installation or its equipment,

on condition that all reasonable precautions have been taken after the damage is discovered or after the disposal has been performed to reduce the negative effects.

(b) The discharge into the sea of substances containing oil or harmful or noxious substances or materials which, subject to the prior approval of the competent authority, are being used for the purpose of combating specific pollution incidents in order to minimize the damage due to the pollution.

2. However, the provisions of this Section shall apply in any case where the operator acted with the intent to cause damage or recklessly and with knowledge that damage will probably result.

3. Disposals carried out in the circumstances referred to in paragraph 1 of this Article shall be reported immediately to the Organization and, either through the Organization or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of wastes or harmful or noxious substances or materials discharged.

SECTION IV — SAFEGUARDS

Article 15 — SAFETY MEASURES

1. The Contracting Party within whose jurisdiction activities are envisaged or are being carried out shall ensure that safety measures are taken with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations.

2. The Contracting Party shall ensure that at all times the operator has on the installations adequate equipment and devices, maintained in good working order, for protecting human life, preventing and combating accidental pollution and facilitating prompt response to an emergency, in accordance with the best available environmentally effective and economically appropriate techniques and the provisions of the operator's contingency plan referred to in Article 16.

3. The competent authority shall require a certificate of safety and fitness for the purpose (hereinafter referred to as "certificate") issued by a recognized body to be submitted in respect of production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems and pipelines and in respect of such other installations as may be specified by the Contracting Party.

4. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this Article.

Article 16 — CONTINGENCY PLANNING

1. In cases of emergency the Contracting Parties shall implement *mutatis mutandis* the provisions of the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency.

2. Each Party shall require operators in charge of installations under its jurisdiction to have a contingency plan to combat accidental pollution, coordinated with the contingency plan of the Contracting Party established in accordance with the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency and approved in conformity with the procedures established by the competent authorities.

3. Each Contracting Party shall establish coordination for the development and implementation of contingency plans. Such plans shall be established in accordance with guidelines adopted by the competent international organization. They shall, in particular, be in accordance with the provisions of Annex VII to this Protocol.

Article 17 — NOTIFICATION

Each Party shall require operators in charge of installations under its jurisdiction to report without delay to the competent authority:

(a) Any event on their Installation causing or likely to cause pollution in the Protocol Area;

(b) Any observed event at sea causing or likely to cause pollution in the Protocol Area.

Article 18 — MUTUAL ASSISTANCE IN CASES OF EMERGENCY

In cases of emergency, a Party requiring assistance in order to prevent, abate or combat pollution resulting from activities may request help from the other Parties, either directly or through the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), which shall do their utmost to provide the assistance requested.

For this purpose, a Party which is also a Party to the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall apply the pertinent provisions of the said Protocol.

Article 19 — MONITORING

1. The operator shall be required to measure, or to have measured by a qualified entity, expert in the matter, the effects of the activities on the environment in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area and to report on them periodically or upon request by the competent authority for the purpose of an evaluation by such competent authority according to a procedure established by the competent authority in its authorization system.

2. The competent authority shall establish, where appropriate, a national monitoring system in order to be in a position to monitor regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions attached to the grant of the authorization are being fulfilled.

Article 20 — REMOVAL OF INSTALLATIONS

1. The operator shall be required by the competent authority to remove any installation which is abandoned or disused, in order to ensure safety of navigation, taking into account the guidelines and standards adopted by the competent international organization. Such removal shall also have due regard to other legitimate uses of the sea, in particular fishing, the protection of the marine environment and the rights and duties of other Contracting Parties. Prior to such removal, the operator under its responsibility shall take all necessary measures to prevent spillage or leakage from the site of the activities.

2. The competent authority shall require the operator to remove abandoned or disused pipelines in accordance with paragraph 1 of this Article or to clean them inside and abandon them or to clean them inside and bury them so that they neither cause pollution, endanger navigation, hinder fishing, threaten the marine environment, nor interfere with other legitimate uses of the sea or with the rights and duties of other Contracting Parties. The competent authority shall ensure that appropriate publicity is given to the depth, position and dimensions of any buried pipeline and that such information is indicated on charts and notified to the Organization and other competent international organizations and the Parties.

3. The provisions of this Article apply also to installations disused or abandoned by any operator whose authorization may have been withdrawn or suspended in compliance with Article 7.

4. The competent authority may indicate eventual modifications to be made to the level of activities and to the measures for the protection of the marine environment which had initially been provided for.

5. The competent authority may regulate the cession or transfer of authorized activities to other persons.

6. Where the operator fails to comply with the provisions of this Article, the competent authority shall undertake, at the operator's expense, such action or actions as may be necessary to remedy the operator's failure to act.

Article 21 — SPECIALLY PROTECTED AREAS

For the protection of the areas defined in the Protocol concerning Mediterranean Specially Protected Areas and any other area established by a Party and in furtherance of the goals stated therein, the Parties shall take special measures in conformity with international law, either individually or through multilateral or bilateral cooperation, to prevent, abate, combat and control pollution arising from activities in these areas.

In addition to the measures referred to in the Protocol concerning Mediterranean Specially Protected Areas for the granting of authorization, such measures may include, *inter alia:*

(a) Special restrictions or conditions when granting authorizations for such areas:

(i) The preparation and evaluation of environmental impact assessments;

(ii) The elaboration of special provisions in such areas concerning monitoring, removal of installations and prohibition of any discharge.

(b) Intensified exchange of information among operators, the competent authorities, Parties and the Organization regarding matters which may affect such areas.

SECTION V — COOPERATION

Article 22 — STUDIES AND RESEARCH PROGRAMMES

In conformity with Article 11 of the Convention, the Parties shall, where appropriate, cooperate in promoting studies and undertaking programmes of scientific and technological research for the purpose of developing new methods of:

(a) Carrying out activities in a way that minimizes the risk of pollution;

(b) Preventing, abating, combating and controlling pollution, especially in cases of emergency.

Article 23 — INTERNATIONAL RULES, STANDARDS AND RECOMMENDED PRACTICES AND PROCEDURES

1. The Parties shall cooperate, either directly or through the Organization or other competent international organizations, in order to:

(a) Establish appropriate scientific criteria for the formulation and elaboration of international rules, standards and recommended practices and procedures for achieving the aims of this Protocol;

(b) Formulate and elaborate such international rules, standards and recommended practices and procedures;

(c) Formulate and adopt guidelines in accordance with international practices and procedures to ensure observance of the provisions of Annex VI.

2. The Parties shall, as soon as possible, endeavour to harmonize their laws and regulations with the international rules, standards and recommended practices and procedures referred to in paragraph 1 of this Article.

3. The Parties shall endeavour, as far as possible, to exchange information relevant to their domestic policies, laws and regulations and the harmonization referred to in paragraph 2 of this Article.

Article 24 — SCIENTIFIC AND TECHNICAL ASSISTANCE TO DEVELOPING COUNTRIES

1. The Parties shall, directly or with the assistance of competent regional or other international organizations, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, law, education and technology, in order to prevent, abate, combat and control pollution due to activities in the Protocol Area.

2. Technical assistance shall include, in particular, the training of scientific, legal and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

Article 25 — MUTUAL INFORMATION

The Parties shall inform one another directly or through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

Article 26 — TRANSBOUNDARY POLLUTION

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.

2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.

3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.

4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.

5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

Article 27 — LIABILITY AND COMPENSATION

1. The Parties undertake to cooperate as soon as possible in formulating and adopting appropriate rules and procedures for the determination of liability and compensation for damage resulting from the activities dealt with in this Protocol, in conformity with Article 12 of the Convention.

2. Pending development of such procedures, each Party:

(a) Shall take all measures necessary to ensure that liability for damage caused by activities is imposed on operators, and they shall be required to pay prompt and adequate compensation;

(b) Shall take all measures necessary to ensure that operators shall have and maintain insurance cover or other financial security of such type and under such terms as the Contracting Party shall specify in order to ensure compensation for damages caused by the activities covered by this Protocol.

SECTION VI — FINAL PROVISIONS

Article 28 — APPOINTMENT OF COMPETENT AUTHORITIES

Each Contracting Party shall appoint one or more competent authorities to:

(a) Grant, renew and register the authorizations provided for in Section II of this Protocol;

(b) Issue and register the special and general permits referred to in Article 9 of this Protocol;

(c) Issue the permits referred to in Annex V to this Protocol;

(d) Approve the treatment system and certify the sewage treatment plant referred to in Article 11, paragraph 1, of this Protocol;

(e) Give the prior approval for exceptional discharges referred to in Article 14, paragraph 1 (b), of this Protocol;

(f) Carry out the duties regarding safety measures referred to in Article 15, paragraphs 3 and 4, of this Protocol;

(g) Perform the functions relating to contingency planning described in Article 16 and Annex VII to this Protocol;

(h) Establish monitoring procedures as provided in Article 19 of this Protocol;

(i) Supervise the removal operations of the installations as provided in Article 20 of this Protocol.

Article 29 — TRANSITIONAL MEASURES

Each Party shall elaborate procedures and regulations regarding activities, whether authorized or not initiated before the entry into force of this Protocol, to ensure their conformity, as far as practicable, with the provisions of this Protocol.

Article 30 — MEETINGS

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 14 of the Convention.

2. The functions of the meetings of the Parties to this Protocol shall be, *inter alia*:

(a) To keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes and appendices;

(b) To revise and amend any annex or appendix to this Protocol;

(c) To consider the information concerning authorizations granted or renewed in accordance with Section II of this Protocol;

(d) To consider the information concerning the permits issued and approvals given in accordance with Section III of this Protocol;

(e) To adopt the guidelines referred to in Article 9, paragraph 2, and Article 23, paragraph 1 (c), of this Protocol;

(f) To consider the records of the contingency plans and means of intervention in emergencies adopted in accordance with Article 16 of this Protocol;

(g) To establish criteria and formulate international rules, standards and recommended practices and procedures in accordance with Article 23, paragraph 1, of this Protocol, in whatever form the Parties may agree;

(h) To facilitate the implementation of the policies and the achievement of the objectives referred to in Section V, in particular the harmonization of national and European Community legislation in accordance with Article 23, paragraph 2, of this Protocol;

(i) To review progress made in the implementation of Article 27 of this Protocol;

(j) To discharge such other functions as may be appropriate for the application of this Protocol.

Article 31 — RELATIONS WITH THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 18 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

Article 32 — FINAL CLAUSE

1. This Protocol shall be open for signature at Madrid from 14 October 1994 to 14 October 1995, by any State Party to the Convention invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Seabed and its Subsoil, held at Madrid on 13 and 14 October 1994. It shall also be open until the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol Area and which exercises competence in fields covered by this Protocol in conformity with Article 24 of the Convention.

2. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

3. As from 15 October 1995, this Protocol shall be open for accession by the States referred to in paragraph 1 above, by the European Community and by any grouping referred to in that paragraph.

4. This Protocol shall enter into force on the thirtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 1 of this Article.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

ANNEX I

HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS THE DISPOSAL OF WHICH IN THE PROTOCOL AREA IS PROHIBITED

A. The following substances and materials and compounds thereof are listed for the purposes of Article 9, paragraph 4, of the Protocol. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation:

1. Mercury and mercury compounds

2. Cadmium and cadmium compounds

3. Organotin compounds and substances which may form such compounds in the marine environment[1]

4. Organophosphorus compounds and substances which may form such compounds in the marine environment[1]

5. Organohalogen compounds and substances which may form such compounds in the marine environment[1]

6. Crude oil, fuel oil, oily sludge, used lubricating oils and refined products

7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea

8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment

9. Radioactive substances, including their wastes, if their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment

B. The present Annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties and, in relation to oil, below the limits defined in Article 10 of this Protocol.

[1] With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

ANNEX II

HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS THE DISPOSAL OF WHICH IN THE PROTOCOL AREA IS SUBJECT TO A SPECIAL PERMIT

A. The following substances and materials and compounds thereof have been selected for the purpose of Article 9, paragraph 5, of the Protocol.

1. Arsenic
2. Lead
3. Copper
4. Zinc
5. Beryllium
6. Nickel
7. Vanadium
8 Chromium
9. Biocides and their derivatives not covered in Annex I
10. Selenium
11. Antimony
12. Molybdenum
13. Titanium
14. Tin
15. Barium (other than barium sulphate)
16. Boron
17. Uranium
18. Cobalt
19. Thallium
20. Tellurium
21. Silver
22. Cyanides

B. The control and strict limitation of the discharge of substances referred to in section A must be implemented in accordance with Annex III.

ANNEX III

FACTORS TO BE CONSIDERED FOR THE ISSUE OF THE PERMITS

For the purpose of the issue of a permit required under Article 9, paragraph 7, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process);

2. Type of waste (origin, average composition);

3. Form of waste (solid, liquid, sludge, slurry, gaseous);

4. Total amount (volume discharged, e.g. per year);

5. Discharge pattern (continuous, intermittent, seasonally variable, etc.);

6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other substances as appropriate;

7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment;

2. Toxicity and other harmful effects;

3. Accumulation in biological materials or sediments;

4. Biochemical transformation producing harmful compounds;

5. Adverse effects on the oxygen content and balance;

6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in Section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the area;

2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges;

3. Initial dilution achieved at the point of discharge into the receiving marine environment;

4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing;

5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area;

6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

(a) Alternative treatment processes;
(b) Reuse or elimination methods;
(c) On-land disposal alternatives;
(d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystem and sea-water uses

1. Effects on human life through pollution impact on:

   (a) Edible marine organisms;

   (b) Bathing waters;

   (c) Aesthetics.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea in conformity with international law.

ANNEX IV

ENVIRONMENTAL IMPACT ASSESSMENT

1. Each Party shall require that the environmental impact assessment contains at least the following:

   (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;

   (b) A description of the initial state of the environment of the area;

   (c) An indication of the nature, aims, scope and duration of the proposed activities;

   (d) A description of the methods, installations and other means to be used, possible alternatives to such methods and means;

   (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;

   (f) A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;

   (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;

   (h) A reference to the methodology used for the environmental impact assessment;

   (i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.

2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

ANNEX V

OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

The following provisions shall be prescribed by the Parties in accordance with Article 10:

A. Oil and Oily Mixtures

1. Spills of high oil content in processing drainage and platform drainage shall be contained, diverted and then treated as part of the product, but the remainder shall be treated to an acceptable level before discharge, in accordance with good oilfield practice;

2. Oily waste and sludges from separation processes shall be transported to shore;

3. All the necessary precautions shall be taken to minimize losses of oil into the sea from oil collected or flared from well testing;

4. All the necessary precautions shall be taken to ensure that any gas resulting from oil activities should be flared or used in an appropriate manner.

B. Drilling Fluids and Drill Cuttings

1. Water-based drilling fluids and drill cuttings shall be subject to the following requirements:

   (a) The use and disposal of such drilling fluids shall be subject to the Chemical Use Plan and the provisions of Article 9 of this Protocol;

   (b) The disposal of the drill cuttings shall either be made on land or into the sea in an appropriate site or area as specified by the competent authority.

2. Oil-based drilling fluids and drill cuttings are subject to the following requirements:

   (a) Such fluids shall only be used if they are of a sufficiently low toxicity and only after the operator has been issued a permit by the competent authority when it has verified such low toxicity;

   (b) The disposal into the sea of such drilling fluids is prohibited;

   (c) The disposal of the drill cuttings into the sea is only permitted on condition that efficient solids control equipment is installed and properly operated, that the discharge point is well below the surface of the water, and that the oil content is less than 100 grams of oil per kilogram dry cuttings;

   (d) The disposal of such drill cuttings in specially protected areas is prohibited;

   (e) In case of production and development drilling, a programme of seabed sampling and analysis relating to the zone of contamination must be undertaken.

3. Diesel-based drilling fluids:

   The use of diesel-based drilling fluids is prohibited. Diesel oil may exceptionally be added to drilling fluids in such circumstances as the Parties may specify.

ANNEX VI

SAFETY MEASURES

The following provisions shall be prescribed by the Parties in accordance with Article 15:

(a) That the installation must be safe and fit for the purpose for which it is to be used, in particular, that it must be designed and constructed so as to withstand, together with its maximum load, any natural condition, including, more specifically, maximum wind and wave conditions as established by historical weather patterns, earthquake possibilities, seabed conditions and stability, and water depth;

(b) That all phases of the activities, including storage and transport of recovered resources, must be properly prepared, that the whole activity must be open to control for safety reasons and must be conducted in the safest possible way, and that the operator must apply a monitoring system for all activities;

(c) That the most advanced safety systems must be used and periodically tested in order to minimize the dangers of leakages, spillages, accidental discharges, fire, explosions, blow-outs or any other threat to human safety or the environment, that a trained specialized crew to operate and maintain these systems must be present and that this crew must undertake periodic exercises. In the case of authorized not permanently manned installations, the permanent availability of a specialized crew shall be ensured;

(d) That the installation and, where necessary, the established safety zone, must be marked in accordance with international recommendations so as to give adequate warning of its presence and sufficient details for its identification;

(e) That in accordance with international maritime practice, the installations must be indicated on charts and notified to those concerned;

(f) That, in order to secure observance of the foregoing provisions, the person and/or persons having the responsibility for the installation and/or the activities, including the person responsible for the blow-out preventer, must have the qualifications required by the competent authority, and that sufficient qualified staff must be permanently available. Such qualifications shall include, in particular, training, on a continuing basis, in safety and environmental matters.

ANNEX VII

CONTINGENCY PLAN

A. The operator's contingency plan

1. Operators are obliged to ensure:

(a) That the most appropriate alarm system and communication system are available at the installation and they are in good working order;

(b) That the alarm is immediately raised on the occurrence of an emergency and that any emergency is immediately communicated to the competent authority;

(c) That, in coordination with the competent authority, transmission of the alarm and appropriate assistance and coordination of assistance can be organized and supervised without delay;

(d) That immediate information about the nature and extent of the emergency is given to the crew on the installation and to the competent authority;

(e) That the competent authority is constantly informed about the progress of combating the emergency;

(f) That at all times sufficient and most appropriate materials and equipment, including stand-by boats and aircraft, are available to put into effect the emergency plan;

(g) That the most appropriate methods and techniques are known to the specialized crew referred to in Annex VI, paragraph (c), in order to combat leakages, spillages, accidental discharges, fire, explosions, blow-outs and any other threat to human life or the environment;

(h) That the most appropriate methods and techniques are known to the specialized crew responsible for reducing and preventing long-term adverse effects on the environment;

(i) That the crew is thoroughly familiar with the operator's contingency plan, that periodic emergency exercises are held so that the crew has a thorough working knowledge of the equipment and procedures and that each individual knows exactly his role within the plan.

2. The operator shall cooperate, on an institutional basis, with other operators or entities capable of rendering necessary assistance, so as to ensure that, in cases where the magnitude or nature of an emergency creates a risk for which assistance is or might be required, such assistance can be rendered.

B. National coordination and direction

The competent authority for emergencies of a Contracting Party shall ensure:

(a) The coordination of the national contingency plan and/or procedures and the operator's contingency plan and control of the conduct of actions, especially in case of significant adverse effects of the emergency;

(b) Direction to the operator to take any action it may specify in the course of preventing, abating or combating pollution or in the preparation of further action for that purpose, including placing an order for a relief drilling rig, or to prevent the operator from taking any specified action;

(c) The coordination of actions in the course of preventing, abating or combating pollution or in preparation for further action for that purpose within the national jurisdiction with such actions undertaken within the jurisdiction of other States or by international organizations;

(d) Collection and ready availability of all necessary information concerning the existing activities;

(e) The provision of an up-to-date list of the persons and entities to be alerted and informed about an emergency, its development and the measures taken;

(f) The collection of all necessary information concerning the extent and means of combating contingencies, and the dissemination of this information to interested Parties;

(g) The coordination and supervision of the assistance referred to in Part A above, in cooperation with the operator;

(h) The organization and if necessary, the coordination of specified actions, including intervention by technical experts and trained personnel with the necessary equipment and materials.

(i) Immediate communication to the competent authorities of other Parties which might be affected by a contingency to enable them to take appropriate measures where necessary;

(j) The provision of technical assistance to other Parties, if necessary;

(k) Immediate communication to the competent international organizations with a view to avoiding danger to shipping and other interests.

APPENDIX

List of Oils*

Asphalt solutions
Blending Stocks
Roofers Flux
Straight Run Residue

Oils
Clarified
Crude Oil
Mixtures containing crude oil
Diesel Oil
Fuel Oil No. 4
Fuel Oil No. 5
Fuel Oil No. 6
Residual Fuel Oil
Road Oil
Transformer Oil
Aromatic Oil (excluding vegetable oil)
Lubricating Oils and Blending Stocks
Mineral Oil
Motor Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates
Straight Run
Flashed Feed Stocks

Gas Oil
Cracked

Jet Fuels
JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Kerosene
Mineral Spirit

Naphtha
Solvent
Petroleum
Heartcut Distillate Oil

Gasoline Blending Stocks
Alkylates - fuel
Reformates
Polymer - fuel

Gasolines
Casinghead (natural)
Automotive
Aviation
Straight Run
Fuel Oil No. 1 (Kerosene)

* The list of oils should not necessarily be considered as exhaustive.

Fuel Oil No. 1-D
Fuel Oil No. 2
Fuel Oil No. 2-D

Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities of 17 May 1980, Pursuant to the Convention for the Protection of the Mediterranean Sea Against Pollution of 16 February 1976, Syracuse, 1996

Done at Syracuse 7 March 1996

Entered into force (not in force)

Depositary: Spain

Primary source citation: Copy of text provided by the United Nations

FINAL ACT OF THE CONFERENCE OF PLENIPOTENTIARIES ON THE AMENDMENT OF THE PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

1. The Conference of Plenipotentiaries on the Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources was convened by the Executive Director of the United Nations Environment Programme in pursuance of a recommendation adopted by the Ninth Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (Barcelona, 5-8 June 1995). The recommendation called for the convening of a meeting of legal and technical experts to examine the amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources, to be followed by a Conference of Plenipotentiaries (UNEP(OCA)/MED IG.5/16).

2. At the kind invitation of the Government of Italy and the Province of Syracuse, with the organizational assistance of the Facolta dell'Arte e della Scienza, the Conference was convened in Syracuse, on 6 and 7 March 1996.

3. The following Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution were invited to participate in the Conference: Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Community, France, Greece, Israel, Italy, Lebanon, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Slovenia, Spain, Syrian Arab Republic, Tunisia and Turkey.

4. The following Contracting Parties accepted the invitation and participated in the Conference: Albania, Croatia, Cyprus, Egypt, European Community, France, Greece, Israel, Italy, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Slovenia, Spain, Tunisia and Turkey.

5. Representatives of the following United Nations bodies, specialized agency and nonorganizations also attended the Conference as observers:

United Nations:

- United Nations Environment Programme (UNEP)

Specialized agency:

- Food and Agriculture Organization of the United Nations (FAO)

Non-governmental organizations:

- Centre for Cleaner Production Initiatives
- Ecomediterrania
- European Chemical Industry Council (CEFIC)
- Europe Conservation
- Greenpeace International
- International Park Documentation Centre (CEDIP)
- La Facolta dell'Arte e della Scienza
- World Wide Fund for Nature International (WWF)

6. The Conference had been preceded by two meetings of Legal and Technical Experts held in Syracuse from 4-6 May 1995 and on 3 and 4 March 1996 respectively, which prepared the final texts of the amendments for adoption by the Conference of Plenipotentiaries.

7. At the opening ceremony, the Conference heard welcoming addresses by H.E. Mr Emilio Gerelli, Deputy Minister for the Environment of Italy, and by Mr M. Cavallaro, President of the Province of Syracuse.

8. The Conference also heard a statement by Mr Lucien Chabason, Coordinator of the Coordinating Unit for the Mediterranean Action Plan.

9. The Conference adopted the following agenda:

1. Opening of the meeting
2. Rules of procedure
3. Election of officers
4. Adoption of the agenda and organization of work
5. Adoption of the amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources
6. Report of the Credentials Committee
7. Adoption of the Final Act of the Conference
8. Signature of the Final Act of the Conference
9. Closure of the Conference.

10. The Conference applied the Rules of Procedure for the meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (UNEP(OCA)/MED IG.43/6, Annex XI).

11. In conformity with Rule 20 of the Rules of Procedure, the Conference elected the following Bureau:

President	H.E. Mr Emilio Gerelli	(Italy)
Vice-President	H.E. Mr Georgios Konstas	(Greece)
Vice-President	Mr Ahmed Bouhaouli	(Morocco)
Vice-President	Mrs Elhem Laabidi	(Tunisia)
Vice-President	Mr Vincent Cassar	(Malta)
Rapporteur	Mr Nenad Mikulic	(Croatia)

12. Mr Lucien Chabason, Coordinator of the Coordinating Unit for the Mediterranean Action Plan, served as the Secretary-General of the Conference, and Mr Ljubomir Jeftic, Deputy Coordinator, served as Executive Secretary of the Conference.

13. The main document which served as the basis for the deliberations of the Conference was:

UNEP(OCA)/MED IG.7/3 Amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources.

14. In conformity with the Rules of Procedure, the Conference decided that the Bureau, comprising the President, the four Vice-Presidents and the Rapporteur, should act as the Credentials Committee.

15. The Credentials Committee met on 6 March 1996 to examine the credentials of representatives attending the Conference and found that the representatives of 15 Contracting Parties were appropriately accredited.

16. The Conference approved the report of the Credentials Committee on 6 March 1996.

17. The representative of the European Community stated that the European Community was not in a position to adopt and sign the amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources as its internal procedures had not yet been completed. The European Community hoped to be able to adopt and sign the amendments to the Protocol in the near future.

18. On the basis of its deliberations, on 7 March 1996 the Conference adopted the Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and its annexes, in accordance with article 16.3 of the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention). The Amendment, which is appended to this Final Act, will enter into force in accordance with article 16.4 of the Barcelona Convention.

19. The Conference also adopted the following resolutions, which are appended to this Final Act:

I. Adoption of the Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources

II. Interim arrangements

III. Tribute to the Government of Italy.

IN WITNESS WHEREOF the representatives of the following Contracting Parties have signed this Final Act:

القرار الأول

اعتماد التعديلات على بروتوكول حماية البحر المتوسط من التلوث من مصادر برية

RESOLUTION I

Adoption of the Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources

RESOLUTION I

Adoption des amendements au Protocole relatif à la protection de la mer Méditerranée contre la pollution d'origine tellurique

RESOLUCION I

Aprobación de las enmiendas al Protocolo para la protección del mar Mediterráneo, contra la contaminación de origen terrestre

RESOLUTION I

Adoption of the Amendment of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources

The Conference,

Recalling the decisions of the Eighth Ordinary Meeting of the Contracting Parties held in Antalya from 12 to 15 October 1993, as well as the recommendations adopted by the Bureau of the Contracting Parties at its Meeting held in Rabat in June 1994, calling upon the Contracting Parties to examine amendments to the Mediterranean Action Plan and the Convention for the Protection of the Mediterranean Sea against Pollution (hereinafter referred to as "the Barcelona Convention") and its related Protocols,

Taking into account the amendments to the Barcelona Convention and the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, adopted by the Conference of Plenipotentiaries held in Barcelona on 9 and 10 June 1995, as well as the new Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean, adopted and signed by the same Conference, but which have not yet entered into force,

Recalling further recommendation I.A(ii)7 contained in Annex XIII to the report of the Ninth Ordinary Meeting of the Contracting Parties held in Barcelona from 5 to 8 June 1995, to convene a meeting of Legal and Technical Experts to examine amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (hereinafter referred to as "the Land-Based Sources Protocol") to be followed by a Conference of Plenipotentiaries,

Having considered on this seventh day of March 1996 the amendments to the articles of the Land-Based Sources Protocol, the text of which is appended to the Final Act of the Conference,

Desirous of ensuring that the amendments to the Land-Based Sources Protocol shall begin to produce beneficial effects at the earliest possible moment,

Having regard to article 16 of the Barcelona Convention providing for procedures to amend the Convention or Protocols,

Having regard furthermore to article 29 of the Barcelona Convention, in which the Government of Spain has been designated Depositary of the Convention and of any Protocol thereto,

1. *Adopts* the following amendments to the articles of the Land-Based Sources Protocol:
   (a) the amendment to the title;
   (b) the amendments to the preamble;
   (c) the amendments to articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16;
   (d) the replacement of Annex I by a new Annex I;
   (e) the deletion of Annex II;
   (f) the amendments to Annex III, renumbered as Annex II;
   (g) the amendments to Annex IV, renumbered as Annex III;
   (h) the addition of a new Annex IV;

2. *Invites* the Contracting Parties to accept these amendments at the earliest possible date after receiving copies thereof by notifying the appropriate instrument of acceptance to the Depositary in accordance with article 16 of the Barcelona Convention;

3. *Also invites* the Government of Spain to act as the Depositary for the adopted amendments to the Land-Based Sources Protocol and to receive the instruments of acceptance as provided in articles 16 and 29 of the Barcelona Convention.

RESOLUTION II

Interim arrangements

The Conference,

Having adopted the amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (hereinafter referred to as "the Land-Based Sources Protocol"),

Having regard to article 13 of the Convention for the Protection of the Mediterranean Sea against Pollution (hereinafter referred to as "the Barcelona Convention") in which the United Nations Environment Programme has been designated as responsible for carrying out the secretariat functions of the Convention and of any protocol thereto,

Desirous of facilitating the earliest possible implementation of the amendments to the Land-Based Sources Protocol, especially in view of the amendments already adopted by the Conference of Plenipotentiaries on the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols, held in Barcelona on 9 and 10 June 1995, but which have not yet entered into force,

1. *Invites* the Contracting Parties and the Executive Director of UNEP to ensure that the Tenth Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (Tunisia 1997) considers the measures and actions necessary for the successful implementation of the amendments to the Land-Based Sources Protocol;

2. *Calls* on the Executive Director of UNEP to initiate consultations with the Contracting Parties on the workplan and timetable for meetings of experts to elaborate national and regional action plans and programmes containing measures and timetables for their implementation, as provided in the amendments to - the Land-Based Sources Protocol;

3. *Invites* the Executive Director of UNEP to establish cooperation with relevant regional and international organizations in activities related to the implementation of this Protocol and its annexes.

تعديلات على بروتوكول حماية البحر المتوسط من التلوث من مصادر برية

AMENDMENTS TO THE PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

AMENDEMENTS AU PROTOCOLE RELATIF A LA PROTECTION DE LA MER MEDITERRANEE CONTRE LA POLLUTION D'ORIGINE TELLURIQUE

ENMIENDAS AL PROTOCOLO PARA LA PROTECCION DEL MAR MEDITERRANEO CONTRA LA CONTAMINACION DE ORIGEN TERRESTRE

AMENDMENTS TO THE PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

A. TITLE

The title of the Protocol is amended as follows:

PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES

B. PREAMBULAR PARAGRAPHS

The first preambular paragraph of the Protocol is amended as follows:

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995,

The third preambular paragraph of the Protocol is amended as follows:

Noting the increasing environmental pressures resulting from human activities in the Mediterranean Sea Area, particularly in the fields of industrialization and urbanization, as well as the seasonal increase in the coastal population due to tourism,

The fourth preambular paragraph of the Protocol is amended as follows:

Recognizing the danger posed to the marine environment, living resources and human health by pollution from land-based sources and activities and the serious problems resulting therefrom in many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges containing substances that are toxic, persistent and liable to bioaccumulate,

The following paragraph is added as the fifth preambular paragraph:

Applying the precautionary principle and the polluter pays principle, undertaking environmental impact assessment and utilizing the best available techniques and the best environmental practice, including clean production technologies, as provided for in article 4 of the Convention,

The sixth preambular paragraph of the Protocol is amended as follows:

Determined to take, in close cooperation, the necessary measures to protect the Mediterranean Sea against pollution from land-based sources and activities,

The following paragraph is added as the seventh preambular paragraph:

Taking into consideration the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, adopted in Washington, D.C., on 3 November 1995,

C. ARTICLE 1

A title is inserted and the text is amended as follows:

GENERAL PROVISION

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate, combat and eliminate to the fullest possible extent pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other

land-based sources and activities within their territories, giving priority to the phasing out of inputs of substances that are toxic, persistent and liable to bioaccumulate.

D. ARTICLE 2

A title is inserted, and the texts of paragraphs (a) and (d) are amended as follows:

DEFINITIONS

(a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;

(d) The "Hydrologic Basin" means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea Area as defined in article 1 of the Convention.

E. ARTICLE 3

A title is inserted and the following new paragraph is added:

PROTOCOL AREA

(abis) (renumbered as b))

(b) The hydrologic basin of the Mediterranean Sea Area;

Paragraph (b) is re-numbered as paragraph (c). Paragraph (c) is re-numbered as paragraph (d) and amended as follows:

(d) Brackish waters, coastal salt waters including marshes and coastal lagoons, and ground waters communicating with the Mediterranean Sea.

F. ARTICLE 4

A title is inserted and the texts of paragraphs I (a) and (b) are amended as follows:

PROTOCOL APPLICATION

1. This Protocol shall apply:

(a) To discharges originating from land-based point and diffuse sources and activities within the territories of the Contracting Parties that may affect directly or indirectly the Mediterranean Sea Area. These discharges shall include those which reach the Mediterranean Area, as defined in article 3(a), (c) and (d) of this Protocol, through coastal disposals, rivers, outfalls, canals, or other watercourses, including ground water flow, or through run-off and disposal under the seabed with access from land;

(b) To inputs of polluting substances transported by the atmosphere to the Mediterranean Sea Area from land-based sources or activities within the territories of the Contracting Parties under the conditions defined in annex III to this Protocol.

The following new paragraph is added:

3. The Parties shall invite States that are not parties to the Protocol and have in their territories parts of the hydrologic basin of the Mediterranean Area to cooperate in the implementation of the Protocol.

G. ARTICLE 5

A title is inserted and the texts of paragraphs 1, 2, and 4 are amended as follows:

GENERAL OBLIGATIONS

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out inputs of the substances that are toxic, persistent and liable to bioaccumulate listed in annex I.

2. To this end, they shall elaborate and implement, individually or jointly, as appropriate, national and regional action plans and programmes, containing measures and timetables for their implementation.

Paragraph 3 is deleted

4. (re-numbered as 3)

The priorities and timetables for implementing the action plans, programmes and measures shall be adopted by the Parties taking into account the elements set out in annex I and shall be periodically reviewed.

The following new paragraphs are added:

4. When adopting action plans, programmes and measures, the Parties shall take into account, either individually or jointly, the best available techniques and the best environmental practice including, where appropriate, clean production technologies, taking into account the criteria set forth in annex IV.

5. The Parties shall take preventive measures to reduce to the minimum the risk of pollution caused by accidents.

H. ARTICLE 6

A title is inserted and the text is replaced by the following:

AUTHORIZATION OR REGULATION SYSTEM

1. Point source discharges into the Protocol Area, and releases into water or air that reach and may affect the Mediterranean Area, as defined in article 3(a), (c) and (d) of this Protocol, shall be strictly subject to authorization or regulation by the competent authorities of the Parties, taking due account of the provisions of this Protocol and annex II thereto, as well as the relevant decisions or recommendations of the meetings of the Contracting Parties.

2. To this end, the Parties shall provide for systems of inspection by their competent authorities to assess compliance with authorizations and regulations.

3. The Parties may be assisted by the Organization, upon request, in establishing new, or strengthening existing, competent structures for inspection of compliance with authorizations and regulations. Such assistance shall include special training of personnel.

4. The Parties establish appropriate sanctions in case of non-compliance with the authorizations and regulations and ensure their application.

I. ARTICLE 7

A title is inserted. The texts of paragraph 1(e) and paragraph 3 are amended as follows:

COMMON GUIDELINES, STANDARDS AND CRITERIA

1.

(e) Specific requirements concerning the quantities of the substances discharged (listed in annex I), their concentration in effluents and methods of discharging them.

3. The action plans, programmes and measures referred to in articles 5 and 15 of this Protocol shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

J. ARTICLE 8

A title is inserted and the text is amended as follows:

MONITORING

Within the framework of the provisions of, and the monitoring programmes provided for in article 12 of the Convention, and if necessary in cooperation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities and make access to the public of the findings in order:

(a) Systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the sectors of activity and categories of substances listed in annex I, and periodically to provide information in this respect;

(b) To evaluate the effectiveness of action plans, programmes and measures implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.

K. ARTICLE 9

A title is inserted and the text is amended as follows:

SCIENTIFIC AND TECHNICAL COOPERATION

In conformity with article 13 of the Convention, the Parties shall cooperate in scientific and technological fields related to pollution from land-based sources and activities, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination, as well as the development of clean production processes to this effect. To this end, the Parties shall, in particular, endeavour to:

The following new paragraph is added:

(c) Promote access to, and transfer of, environmentally sound technology including clean production technology.

L. ARTICLE 10

A title is inserted and the text is amended as follows:

TECHNICAL ASSISTANCE

1 . The Parties shall, directly or with the assistance of competent regional or other international organizations, bilaterally or multilaterally, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing, reducing or, as appropriate, phasing out inputs of pollutants from land-based sources and activities and their harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of scientific and technical personnel, as well as the acquisition, utifization and production by those countries of appropriate equipment and, as appropriate, clean production technologies, on advantageous terms to be agreed upon among the Parties concerned.

M. ARTICLE 11

A title is inserted as follows:

TRANSBOUNDARY POLLUTION

N. ARTICLE 12

A title is inserted and the text of paragraph 1 is amended as follows:

SETTLEMENT OF DISPUTES

1. Taking into account article 28, paragraph 1, of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.

O. ARTICLE 13

A title is inserted. The texts of paragraph 1, the first sentence of paragraph 2 and sub paragraph (d) of paragraph 2 are amended as follows:

REPORTS

1. The Parties shall submit reports every two years, unless decided otherwise by the Meeting of the Contracting Parties, to the meetings of the Contracting Parties, through the Organization, of measures taken, results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

2. Such reports shall include, *inter alia*:

(d) Action plans, programmes and measures implemented in accordance with articles 5, and 15 of this Protocol.

P. ARTICLE 14

A title 13 inserted. The texts of paragraph 1 and of sub-paragraphs (a), (c) and (f) of paragraph 2 are amended as follows:

MEETINGS

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 18 of the Convention.

(a) To keep under review the implementation of this Protocol and to consider the efficacy of the action plans, programmes and measures adopted;

(c) To formulate and adopt action plans, programmes and measures in accordance with articles 5, 7 and 15 of this Protocol;

(f) To consider the reports submitted by the Parties under article 13 of this Protocol.

Q. ARTICLE 15

A title is inserted and the text of paragraph 1 is amended as follows:

ADOPTION OF ACTION PLANS, PROGRAMMES AND MEASURES

1. The meeting of the Parties shall adopt, by a two-thirds majority, the short-term and medium-term regional action plans and programmes containing measures and timetables for their implementation provided for in article 5 of this Protocol.

The text of paragraph 2 is replaced by the following:

2. Regional action plans and programmes as referred to in paragraph 1 shall be formulated by the Organization and considered and approved by the relevant technical body of the Contracting Parties within one year at the latest of the entry into force of the amendments to this Protocol. Such regional action plans and programmes shall be put on the agenda for the subsequent meeting of the Parties for adoption. The same procedure shall be followed for any additional action plans and programmes.

The following now paragraphs are added:

3. The measures and timetables adopted in accordance with paragraph 1 of this article shall be notified by the Secretariat to all the Parties. Such measures and timetables become binding on the one hundred and eightieth day following the day of notification for the Parties which have not notified the Secretariat of an objection within one hundred and seventy-nine days from the date of notification.

4. The Parties which have notified an objection in accordance with the preceding paragraph shall inform the meeting of the Parties of the provisions they intend to take, it being understood that these Parties may at any time give their consent to these measures or timetables.

R. ARTICLE 16

A title inserted and the text of paragraph 2 is amended as follows:

FINAL PROVISIONS

2. The rules of procedure and the financial rules adopted pursuant to article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

The text of the last paragraph is amended as follows:

DONE at Athens on 17 May 1980 and amended at Syracuse on 7 March 1996 in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

ANNEX I

Annex I is replaced by a new Annex I as follows:

ANNEX I

ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE PREPARATION OF ACTION PLANS, PROGRAMMES AND MEASURES FOR THE ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES

This annex contains elements which will be taken into account in the preparation of action plans, programmes and measures for the elimination of pollution from land-based sources and activities referred to in articles 5, 7 and 15 of this Protocol.

Such action plans, programmes and measures will aim to cover the sectors of activity listed in section A and also cover the groups of substances enumerated in section C, selected on the basis of the characteristics listed in section 8 of the present annex.

Priorities for action should be established by the Parties, on the basis of the relative importance of their impact on public health, the environment and socio-economic and cultural conditions. Such programmes should cover point sources, diffuse sources and atmospheric deposition.

In preparing action plans, programmes and measures, the Parties, in conformity with the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, adopted in Washington, D.C. in 1995, will give priority to substances that are toxic, persistent and liable to bioaccumulate, in particular to persistent organic pollutants (POPs), as well as to wastewater treatment and management.

A. SECTORS OF ACTIVITY

The following sectors of activity (not listed in order of priority) will be primarily considered when setting priorities for the preparation of action plans, programmes and measures for the elimination of the pollution from land-based sources and activities:

1. Energy production;
2. Fertilizer production;
3. Production and formulation of biocides;
4. The pharmaceutical industry;
5. Petroleum refining;
6. The paper and paper-pulp industry;
7. Cement production;
8. The tanning industry;
9. The metal industry;
10. Mining;
11. The shipbuilding and repairing industry;
12. Harbour operations;
13. The textile industry;
14. The electronic industry;
15. The recycling industry;
16. Other sectors of the organic chemical industry;
17. Other sectors of the inorganic chemical industry;
18. Tourism;
19. Agriculture;

20. Animal husbandry;
21. Food processing;
22. Aquaculture;
23. Treatment and disposal of hazardous wastes;
24. Treatment and disposal of domestic waste water;
25. Management of municipal solid waste;
26. Disposal of sewage sludge;
27. The waste management industry;
28. Incineration of waste and management of its residues;
29. Works which cause physical alteration of the natural state of the coastline;
30. Transport.

B. CHARACTERISTICS OF SUBSTANCES IN THE ENVIRONMENT

For the preparation of action plans, programmes and measures, the Parties should take into account the characteristics listed below:

1. Persistence;
2. Toxicity or other noxious properties (e.g. carcinogenicity, mutagenicity, teratogenicity);
3. Bioaccumulation;
4. Radioactivity;
5. The ratio between observed concentrations and no observed effect concentrations (NOEC);
6. The risk of eutrophication of anthropogenic origin;
7. Health effects and risks;
8. Transboundary significance;
9. The risk of undesirable changes In the marine ecosystem and irreversibility or durability of effects;
10. Interference with the sustainable exploitation of living resources or with other legitimate uses of the sea;
11. Effects on the taste and/or smell of marine products for human consumption;
12. Effects on the smell, colour, transparency or other characteristics of seawater,
13. Distribution pattern (i.e. quantities involved, use patterns and probability of reaching the marine environment).

C. CATEGORIES OF SUBSTANCES

The following categories of substances and sources of pollution will serve as guidance in the preparation of action plans, programmes and measures:

1. Organohalogen compounds and substances which may form such compounds in the marine environment Priority will be given to Aldrin, Chlordane, DDT, Dieldrin, Dioxins and Furans, Endrin, Heptachlor, Hexachlorobenzene, Mirex, PCBs and Toxaphene;
2. Organophosphorus compounds and substances which may form such compounds in the marine environment;
3. Organotin compounds and substances which may form such compounds in the marine environment;
4. Polycyclic aromatic hydrocarbons;
5. Heavy metals and their compounds;
6. Used lubricating oils;
7. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment;
8. Biocides and their derivatives;

9. Pathogenic microorganisms;
10. Crude oils and hydrocarbons of petroleum origin;
11. Cyanides and fluorides;
12. Non-biodegradable detergents and other non-biodegradable surface-active substances;
13. Compounds of nitrogen and phosphorus and other substances which may cause eutrophication;
14. Litter (any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment);
15. Thermal discharges;
16. Acid or alkaline compounds which may impair the quality of water;
17. Non-toxic substances that have an adverse effect on the oxygen content of the marine environment;
18. Non-toxic substances that may interfere with any legitimate use of the sea;
19. Non-toxic substances that may have adverse effects on the physical or chemical characteristics of seawater.

ANNEX II

Annex II is deleted.

ANNEX III

Annex III is re-numbered as Annex II. A title is added and the introductory paragraph is amended as follows:

ANNEX II ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE ISSUE OF THE AUTHORIZATIONS FOR DISCHARGES OF WASTES

With a view to the issue of an authorization for the discharges of wastes containing substances referred to in article 6 to this Protocol, particular account will be taken, as the case may be, of the following factors:

The title and paragraphs 1, 2, 3, 6 and 7 of section A are amended as follows:

A. CHARACTERISTICS AND COMPOSITION OF THE DISCHARGES

1. Type and size of point or diffuse source (e.g. industrial process).
2. Type of discharges (e.g. origin, average composition).
3. State of waste (e.g. solid, liquid, sludge, slurry).
6. Concentrations with respect to relevant constituents of substances listed in annex I and of other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste discharges.

The title of section B is amended and a new paragraph is added.

B. CHARACTERISTICS OF DISCHARGE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

7. All other characteristics as listed in annex I, section B.

The title and paragraph 3 of section C are amended as follows:

C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING ENVIRONMENT

3. Initial dilution achieved at the point of discharge into the receiving environment.

ANNEX IV

Annex IV is re-numbered as Annex III. A title is added and paragraphs 1, 2, 3 and 5 are amended as follows:

ANNEX III

CONDITIONS OF APPLICATION TO POLLUTION TRANSPORTED THROUGH THE ATMOSPHERE

1. This Protocol shall apply to polluting discharges into the atmosphere under the following conditions:

   (a) the discharged substance is or could be transported to the Mediterranean Sea Area under prevailing meteorological conditions;

   (b) the input of the substance into the Mediterranean Sea Area is hazardous for the environment in relation to the quantities of the same substance reaching the Area by other means.

2. This Protocol shall also apply to polluting discharges into the atmosphere affecting the Mediterranean Sea Area from land-based sources within the territories of the Parties and from fixed man-made offshore structures, subject to the provisions of article 4.2 of this Protocol.

3. In the case of pollution of the Mediterranean Sea Area from land-based sources through the atmosphere, the provisions of articles 5 and 6 of this Protocol shall apply progressively to appropriate substances and sources listed in annex I to this Protocol as will be agreed by the Parties.

5. The provisions of annex II to this Protocol shall apply to pollution through the atmosphere whenever appropriate. Air pollution monitoring and modelling using acceptable common emission factors and methodologies shall be carried out in the assessment of atmospheric deposition of substances, as well as in the compilation of inventories of quantities and rates of pollutant emissions into the atmosphere from land-based sources.

ANNEX IV

A new Annex IV is added as follows:

ANNEX IV

CRITERIA FOR THE DEFINITION OF BEST AVAILABLE TECHNIQUES AND BEST ENVIRONMENTAL PRACTICE

A. BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:

(a) comparable processes, facilities or methods of operation which have recently been successfully tried out;

(b) technological advances and changes in scientific knowledge and understanding;

(c) the economic feasibility of such techniques;

(d) time limits for installation in both new and existing plants;

(e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

B. BEST ENVIRONMENTAL PRACTICE

6. The term "best environmental practice" means the application of the most appropriate combination of environmental control measures and strategies. In making a selection fur individual cases, at least the following graduated range of measures should be considered:

(a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;

(b) the development and application of codes of good environmental practice which cover all aspects of the activity in the product's life;

(c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;

(d) saving resources, including energy;

(e) making collection and disposal systems available to the public;

(f) avoiding the use of hazardous substances or products and the generation of hazardous waste;

(g) recycling, recovery and re-use;

(h) the application of economic instruments to activities, products or groups of products;

(i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

(a) the environmental hazard of the product and its production, use and ultimate disposal;

(b) the substitution by less polluting activities or substances;

(c) the scale of use;

(d) the potential environmental benefit or penalty of substitute materials or activities;

(e) advances and changes in scientific knowledge and understanding;

(f) time limits for implementation;

(g) social and economic implications.

8. It therefore follows that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and Their Disposal, Pursuant to the Convention for the Protection of the Mediterranean Sea Against Pollution of 16 February 1976, Izmir, 1996

Done at Izmir 1 October 1996

Entered into force (not in force)

Depositary: Spain

Primary source citation: Copy of text provided by the United Nations

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995,

Conscious of the danger threatening the environment of the Mediterranean Sea caused by the transboundary movements and disposal of hazardous wastes,

Convinced that the most effective way of protecting human health and the marine environment from the dangers posed by hazardous wastes is the reduction and elimination of their generation, for example through substitution and other clean production methods,

Recognizing the increased will for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially in developing countries,

Taking into account the 1992 Rio Declaration on Environment and Development and especially, Principle 14 which declares that States "should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities or substances that cause severe environmental degradation or are found to be harmful to human health",

Aware of the growing international concern regarding the need to ensure that pollution originating in one State is not transferred to other States and, consistent with this objective, of the need to reduce transboundary movements of hazardous wastes to a minimum as far as possible, with the ultimate aim of phasing out such movements,

Recognizing also that any State has the sovereign right to ban the entry, transit or disposal of hazardous wastes in its territory,

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea of 1982,

Taking into account also the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted on 22 March 1989, in particular Article 11, and decisions I/22, II/12 and III/1 adopted by the First, Second and Third Meetings respectively of the Conference of the Parties to the Basel Convention,

Taking into account further that many States, among them Contracting Parties to the Barcelona Convention, have taken legal measures and entered into international agreements consistent with the Basel Convention to ban transboundary movements of hazardous wastes, for example, the IVth ACP/EEC Convention signed in Lomé on 15 December 1989 by the European Economic Community and the African, Caribbean and Pacific Group of States, and the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, adopted under the auspices of the Organization of African Unity on 30 January 1991,

Recognizing further the differences in levels of economic and legislative development among the various Mediterranean coastal States, and realizing that hazardous waste should not be allowed to be transported in order to take advantage of such economic or legislative disparities to the detriment of the environment and of the social well-being of developing countries,

Bearing in mind also the fact that the most effective way of dealing with the threats represented by wastes for human health and the environment consists in decreasing or even prohibiting the transfer of activities which generate hazardous wastes,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;

(b) A "Party" means a Contracting Party to this Protocol in accordance with Article 29, paragraph 1, of the Convention;

(c) "Wastes" means substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

(d) "Hazardous wastes" means wastes or categories of substances as specified in Article 3 of this Protocol;

(e) "Disposal" means any operation specified in Annex III to this Protocol;

(f) "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;

(g) "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

(h) "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous waste, and any information related to it, and for responding to such a notification;

(i) "Clean production methods" means those which reduce or avoid the generation of hazardous wastes in conformity with Articles 5 and 8 of this Protocol;

(j) "Environmentally sound management" of hazardous wastes means taking all practicable steps to ensure that hazardous wastes are collected, transported and disposed of (including after-care of disposal sites) in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

(k) "Area under the natonal jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibilities in accordance with international law in regard to the protection of human health or the environment;

(l) "State of export" means a Party from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;

(m) "State of import" means a Party to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

(n) "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;

(o) "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;

(p) "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;

(q) "Generator" means any person whose activity produces hazardous wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

(r) "Disposer" means any person to whom hazardous wastes are shipped and who carries out the disposal of such wastes;

(s) "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9;

(t) "Person" means any natural or legal person;

(u) "Developing countries" means those countries which are not Member States of the Organization for Economic Co-operation and Development (OECD);*

(v) "Developed countries" means those countries which are Member States of the Organization for Economic Co-operation and Development (OECD);*

(w) "Organization" means the body referred to in Article 2 (b) of the Convention.

* For the purpose of this Protocol, Monaco shall have the same rights and obligations as Member States of the OECD.

Article 2

PROTOCOL AREA

The Protocol area as referred to in this Protocol shall mean the area as defined in Article 1 of the Convention.

Article 3

SCOPE OF THE PROTOCOL

1. This Protocol shall apply to:

   (a) Wastes that belong to any category in Annex I to this Protocol;

   (b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of export, import or transit;

   (c) Wastes that possess any of the characteristics contained in Annex II to this Protocol;

   (d) Hazardous substances that have been banned or are expired, or whose registration has been cancelled or refused through government regulatory action in the country of manufacture or export for human health or environmental reasons, or have been voluntarily withdrawn or omitted from the government registration required for use in the country of manufacture or export.

2. Wastes which derive from the normal operations of ships, the discharge of which is covered by another international instrument, are excluded from the scope of this Protocol.

3. The generator, the exporter or the importer, depending on the circumstances, shall bear the responsibility for checking with the competent authorities of the State of export, import or transit that a particular waste, prior to its transboundary movement, is not subject to this Protocol.

Article 4

NATIONAL DEFINITIONS OF HAZARDOUS WASTES

1. Each Party to the Convention shall, within six months of becoming a Party, inform the Organization of the wastes, other than those listed in Annex I to this Protocol, considered or defined as hazardous wastes under its national legislation, and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Organization of any significant changes in information it has provided pursuant to paragraph 1 of this Article.

3. The Organization shall inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.

4. The Parties shall be responsible for making the information transmitted to them by the Organization under paragraph 3 of this Article available to their exporters.

Article 5

GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, abate and eliminate pollution of the Protocol area which can be caused by transboundary movements and disposal of hazardous wastes.

2. The Parties shall take all appropriate measures to reduce to a minimum, and where possible eliminate, the generation of hazardous wastes.

3. The Parties shall also take all appropriate measures to reduce to a minimum the transboundary movement of hazardous wastes, and if possible to eliminate such movement in the Mediterranean. To achieve this goal, Parties have the right individually or collectively to ban the import of hazardous wastes. Other Parties shall respect this sovereign decision and not permit the export of hazardous wastes to States which have prohibited their import.

4. Subject to the specific provisions relating to the transboundary movement of hazardous wastes through the territorial sea of a State of transit referred to in Article 6.4 of this Protocol, all Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the export and transit of hazardous wastes to developing countries, and Parties which are not Member States of the European Community* shall prohibit all imports and transit of hazardous wastes.

5. The Parries shall cooperate with other United Nations agencies, relevant international and regional organizations in order to prevent illegal traffic, and shall take appropriate measures to achieve this goal, including criminal punishment measures in accordance with their national legislation.

Article 6

TRANSBOUNDARY MOVEMENT AND NOTIFICATION PROCEDURES

In exceptional cases, unless otherwise prohibited, when hazardous wastes cannot be disposed of in an environmentally sound manner in the country in which they originated, transboundary movements of such wastes can be allowed if:

1. The special situation of the Mediterranean developing countries which do not have the technical capabilities nor the disposal facilities for the environmentally sound management of hazardous wastes is taken into consideration.

2. The competent authority of the State of import ensures that the hazardous waste is disposed of in an approved site or facility with the technical capacity for its environmentally sound disposal.

3. The transboundary movement of hazardous wastes only takes place with the prior written notification of the State of export as specified in Annex IV to this Protocol, and the prior written consent of the States(s) of import and the State(s) of transit. This paragraph does not apply to conditions of passage through the territorial sea, which are governed by paragraph 4 of this Article.

4. The transboundary movement of hazardous wastes through the territorial sea of a State of transit only takes place with the prior notification by the State of export to the State of transit, as specified in Annex IV to this Protocol. After reception of the notification, the State of transit brings to the attention of the State of export all the obligations relating to passage through its territorial sea in application of international law and the relevant provisions of its domestic legislation adopted in compliance with international law to protect the marine environment. Where necessary, the State of transit may take appropriate measures in accordance with international law. This procedure must be complied with within the delays provided for by the Basel Convention.

* For the purposes of this Protocol, Monaco shall have the same rights and obligations as Member States of the European Community.

5. Every State involved in a transboundary movement ensures that such movement is consistent with international safety standards and financial guarantees, in particular the procedures and standards set out in the Basel Convention.

Article 7

DUTY TO REIMPORT

The State of export shall reimport the hazardous wastes if the transboundary movement cannot be completed by reason of impossibility of performance of the contracts relating to the movement and disposal, of the wastes. To this end, any State of transit shall not oppose, hinder or prevent the return of those wastes to the State of export after being properly informed by the State of export.

Article 8

REGIONAL COOPERATION

1. In conformity with Article 13 of the Convention, the Parties shall cooperate as far as possible in scientific and technological fields related to pollution from hazardous wastes, particularly in the implementation and development of new methods for reducing and eliminating hazardous waste generated through clean production methods.

2. To this end, the Parties shall submit annual reports to the Organization regarding the hazardous wastes they generate and transfer within the Protocol area in order to enable the Organization to produce a hazardous waste audit.

3. The Parties shall cooperate in taking appropriate measures to implement the precautionary approach based on prevention of pollution problems arising from hazardous wastes and their transboundary movement and disposal. To this end, the Parties shall ensure that clean production methods are applied to production processes.

Article 9

ILLEGAL TRAFFIC

1. For the purpose of this Protocol, any transboundary movement of hazardous wastes in contravention of this Protocol or of other rules of international law shall be deemed to be illegal traffic.

2. Each Party shall introduce appropriate national legislation to prevent and punish illegal traffic, including criminal penalties on all persons involved in such illegal activities.

3. In the case of illegal traffic due to the conduct of the generator or the exporter, the State of export shall ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself, into the State of export within 30 days from the time the illegal traffic has come to its attention and that appropriate legal action is taken against the contravenor(s).

4. In the case of illegal traffic due to the conduct of the importer or disposer, the State of import shall ensure that the wastes in question are eliminated according to environmentally sound methods by the importer within 30 days from the time the illegal traffic has come to the attention of the State of import; if not possible, the State of export shall ensure that the wastes are taken back by the exporter, the generator or, if necessary, by itself into the State of export. The competent authorities of the importing or exporting States shall ensure that legal proceedings according to this Protocol are taken against the contravenor(s).

5. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through

cooperation that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

6. The Parties shall forward, as soon as possible, all information relating to illegal traffic to the Organization, which shall distribute the information to all Contracting Parties.

7. The Parties shall cooperate to ensure that no illegal traffic takes place. Upon request, the Organization shall assist Parties in their identification of cases of illegal traffic and shall circulate immediately to the Parties concerned any information it has received regarding illegal traffic.

8. The Organization shall undertake the necessary coordination with the Secretariat of the Basel Convention in relation to the effective prevention and monitoring of illegal traffic in hazardous wastes. Such coordination shall be mainly based on:

(a) Exchange of information on cases or alleged cases of illegal traffic in the Mediterranean and coordination of action to remedy such cases;

(b) Providing assistance in the field of capacity-building, including development of national legislation and of appropriate infrastructure in the Mediterranean States with a view to the prevention and penalization of illegal traffic in hazardous wastes;

(c) The establishment of a mechanism to prevent and monitor illegal traffic in hazardous wastes in the Mediterranean.

Article 10

ASSISTANCE TO DEVELOPING COUNTRIES

The Parties shall, directly or with the assistance of competent or other international organizations or bilaterally, cooperate with a view to formulating and implementing programmes of financial and technical assistance to developing countries for the implementation of this Protocol.

Article 11

TRANSMISSION OF INFORMATION

The Parties shall inform one another through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and distribution of such information shall be determined at the meetings of the Parties.

Article 12

INFORMATION TO AND PARTICIPATION OF THE PUBLIC

1. In the exceptional cases in which transboundary movement of hazardous wastes is permitted under Article 6 of this Protocol, the Parties shall ensure that adequate information is made available to the public, transmitted through such channels as the Parties deem appropriate.

2. The State of export and the State of import shall, in accordance with the provisions of this Protocol and whenever possible and appropriate, give the public an opportunity to participate in relevant procedures with the aim of making known its views and concerns.

Article 13

VERIFICATION

1. Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Protocol informs the Organization thereof, and, in such an event, simultaneously and immediately informs, directly or through the Organization, the Party against whom the allegations are made.

2. The Organization shall carry out a verification of the substance of the allegation through consultation with the Parties concerned and submit a report thereon to the Parties.

Article 14

LIABILITY AND COMPENSATION

The Parties shall cooperate with a view to setting out, as soon as possible, appropriate guidelines for the evaluation of the damage, as well as rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes.

Article 15

MEETINGS

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with Article 18 of the Convention.

2. The functions of the meetings of the Parties shall be, *inter alia*:

(a) To keep under review the implementation of this Protocol, and consider any additional measures, including in the form of annexes;

(b) To revise and amend this Protocol and any annex thereto, as appropriate;

(c) To formulate and adopt programmes, methods and measures in accordance with the relevant Articles of this Protocol;

(d) To consider any information submitted by the Parties to the Organization or to the meetings of the Parties in accordance with the relevant Articles of this Protocol;

(e) To perform such other functions as may be appropriate for the application of this Protocol.

Article 16

ADOPTION OF ADDITIONAL PROGRAMMES AND MEASURES

The meeting of the Parties shall adopt, by a two-thirds (2/3) majority, any additional programmes and measures for the prevention and elimination of pollution from transboundary movements of hazardous wastes and their disposal.

Article 17

FINAL CLAUSES

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature at Izmir on 1 October 1996, and at Madrid from 2 October 1996 to 1 October 1997 by any State Party to the Convention. It shall also be open on the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol area and which exercises competence in the fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 2 October 1997, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Community and by any grouping referred to in that paragraph.

6. This Protocol shall enter into force on the thirtieth (30) day following the deposit of at least six (6) instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this Article

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Izmir on this first day of October 1996 in a single copy in the Arabic, English, French, and Spanish languages, the four texts being equally authoritative.

ANNEX I

CATEGORIES OF WASTES SUBJECT TO THIS PROTOCOL

A. HAZARDOUS WASTES

Y0 All wastes containing or contaminated by radionuclides, the radionuclide concentration or properties of which result from human activity

Y1 Clinical wastes from medical care in hospitals, medical centres and clinics

Y2 Wastes from the production and preparation of pharmaceutical products

Y3 Waste pharmaceuticals, drugs and medicines

Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals

Y5 Wastes from manufacturing, formulation and use of wood preserving chemicals

Y6 Wastes from the production, formulation and use of organic solvents

Y7 Wastes from heat treatment and tempering operations containing cyanides

Y8 Waste mineral oils unfit for their originally intended use

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnishes

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known

Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics

Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

Y19 Metal carbonyls

Y20 Beryllium; beryllium compounds

Y21 Hexavalent chromium compounds

Y22 Copper compounds

Y23 Zinc compounds

Y24 Arsenic; arsenic compounds

Y25 Selenium; selenium compounds

Y26 Cadmium; cadmium compounds

Y27 Antimony; antimony compounds

Y28 Tellurium; tellurium compounds

Y29 Mercury; mercury compounds

Y30 Thallium; thallium compounds

Y31 Lead; lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibres)

Y37 Organic phosphorus compounds

Y38 Organic cyanides

Y39 Phenols; phenolic compounds including chlorophenols

Y40 Ethers

Y41 Halogenated organic solvents

Y42 Organic solvents excluding halogenated solvents

Y43 Any congener of polychlorinated dibenzo-furan

Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

B. HOUSEHOLD WASTES

Y46 Wastes collected from households, including sewage and sewage sludges

Y47 Residues arising from the incineration of household wastes.

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

UN Class*	Code	Characteristics
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 degrees C, closed-cup test or not more than 65.6 degrees C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such difference would be within the spirit of this definition.)
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or in heating up on contact with air, and being liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may generally by yielding oxygen, cause or contribute to the combustion of other materials.
5.2	H5.2	Organic peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6. 1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

* Corresponds to the hazardous classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1 /Rev.5, United Nations, New York, 1988).

6.2	H6.2	Infectious substances Substances or wastes containing viable microorganisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts on the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.

ANNEX III

DISPOSAL OPERATIONS

The list of disposal operations contained in this Annex reflects those which occur or have occurred in practice. It does not necessarily reflect a list of acceptable disposal operations. Pursuant to Articles 5 and 6 of this Protocol, hazardous wastes must in any event be managed in an environmentally sound manner.

A. Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct reuse or alternative uses.

Section A encompasses all such disposal operations which occur in practice.

D1 Deposit into or onto land (eg. landfill, etc.)

D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)

D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds, lagoons, etc.)

D5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D6 Release into a water body except seas/oceans

D7 Release into seas/oceans including sea-bed insertion

D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A

D9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A (e.g. evaporation, drying, calcination, neutralization, precipitation, etc.)

D10 Incineration on land

D11 Incineration at sea

D12 Permanent storage (e.g. emplacement of containers in mines, etc.)

D13 Blending or mixing prior to submission to any of the operations in Section A

D14 Repackaging prior to submission to any of the operations in Section A

D15 Storage pending any of the operations in Section A

B. Operations which may lead to resource recovery, recycling, reclamation direct reuse or alternative uses.

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

RI Use as a fuel (other than in direct incineration) or other means to generate energy

R2 Solvent reclamation/regeneration

R3 Recycling/reclamation of organic substances which are not used as solvents

R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution abatement
R8	Recovery of components from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1-R10
R12	Exchange of wastes for submission to any of the operations numbered R1-R11
R13	Accumulation of material intended for any operation in Section B

ANNEX IV (A)

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export;

2. Exporter of the waste 1/;

3. Generator(s) of the waste and site of generation 1/;

4. Importer and disposer of the waste and actual site of disposal 1/;

5. Intended carrier(s) of the waste or their agents, if known 1/;

6. Country of export of the waste

   Competent authority 2/;

7. Expected countries of transit

   Competent authority 2/;

8. Country of import of the waste

   Competent authority 2/;

9. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) 3/;

10. Means of transport envisaged (road, rail, sea, air, inland waters);

11. Information relating to insurance 4/;

12. Designation and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents;

13. Type of packaging envisaged (e.g. bulk, drums, tanker);

14. Estimated quantity in weight/volume 6/;

15. Process by which the waste is generated 7/;

16. Code according to ANNEX I, classifications according to ANNEX II, H number, and UN class;

17. Method of disposal as per ANNEX III;

18. Declaration by the generator and exporter that the information is correct;

19. Information transmitted (Including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there is no reason to believe that the waste will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import;

20. Information concerning. the contract between the exporter and the disposer.

NOTES

The Organization should make use of a Notification Form and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.

2/ Full name and address, telephone, telex or telefax number.

3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

5/ The nature and the concentration of the most hazardous components, in terms, of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

ANNEX IV (B)

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/;

2. Generator(s) of the waste and site of generation 1/;

3. Disposer of the waste and actual site of disposal 1/;

4. Carrier(s) of the waste 1/ or his agent(s):

5. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste;

6. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated;

7. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable);

8. Information on special handling requirements including emergency provision in case of accidents;

9. Type and number of packages;

10. Quantity in weight/volume;

11. Declaration by the generator or exporter that the information is correct;

12. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties;

13. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

14. The insurance documents, bond or other guarantee as may be required by the Parties, as provided in Article 6, paragraph 5.

NOTES

The Organization should make use of a Movement Document and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

The information required on the Movement Document shall where possible be integrated in one document with that required under transport rules. Where this is not possible, the information should complement rather than duplicate that required under the transport rules. The Movement Document shall carry instructions as to who is to provide information and fill out any form.

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

Annexes to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean of 3 April 1982, Pursuant to the Convention for the Protection of the Mediterranean Sea Against Pollution of 16 February 1976, Monaco, 1996

Done at Monaco 24 November 1996

Entered into force (not in force)

Depositary: Spain

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RESOLUTION I

ADOPTION OF THE ANNEXES TO THE PROTOCOL CONCERNING SPECIALLY PROTECTED AREAS AND BIOLOGICAL DIVERSITY IN THE MEDITERRANEAN

The meeting of Plenipotentiaries,

Recalling the decision of the Conference of Plenipotentiaries held in Barcelona on 9 and 10 June 1995, whereby the Annexes to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean, signed at this Conference, would be adopted at a later meeting of Plenipotentiaries,

Recalling also the recommendations on the drafting of these Annexes submitted by the Meeting of Experts on Endangered Species in the Mediterranean (Montpellier, 22-25 November 1995), by the Meeting of Experts on Common Criteria for the Choice of Protected Marine and Coastal Areas that could be included in the SPAMI List (Tunis, 22-23 March 1996), by the Third meeting of the National Focal Points for Specially Protected Areas (Tunis, 25-27 March 1996) and by the Government-Designated Experts on the Annexes to the Protocol (Monaco, 23 November 1996),

Having adopted, on this twenty-fourth day of November 1996, the Annexes to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean, the text of which is appended to the Final Act of the Meeting,

Desirous of ensuring that the Annexes to the Protocol shall begin to produce beneficial effects, as an integral part of the Protocol, at the earliest possible moment,

Having regard to Article 17 of the Barcelona Convention stating the procedures governing Annexes and Amendments to Annexes to the Convention or Protocols,

Having regard furthermore to Article 29 of the Barcelona Convention, in which the Government of Spain has been designated Depository of the Convention and of any Protocol thereto,

1. *Adopts* the following Annexes to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean:

   (a) Annex I: Common Criteria for the Choice of Protected Marine and Coastal Areas that Could be Included in the SPAMI List;

   (b) Annex II: List of Endangered or Threatened Species;

   (c) Annex III: List of Species Whose Exploitation is Regulated;

2. *Invites* the Contracting Parties to accept these Annexes in accordance with the procedure provided in Article 17, paragraphs 2 and 3 of the Barcelona Convention;

3. *Requests* the Contracting Parties, as the case may be, to ratify, accept, approve, or accede to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean as quickly as possible;

4. *Also invites* the Government of Spain to deposit the adopted Annexes to the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean in accordance with Article 29 of the Barcelona Convention and to act, as specifically provided for, in accordance with the procedure of Article 17, paragraph 2 of the Barcelona Convention.

ANNEX I

COMMON CRITERIA FOR THE CHOICE OF PROTECTED MARINE AND COASTAL AREAS THAT COULD BE INCLUDED IN THE SPAMI LIST

A. GENERAL PRINCIPLES

The Contracting Parties agree that the following general principles will guide their work in establishing the SPAMI List:

a) The conservation of the natural heritage is the basic aim that must characterize a SPAMI. The pursuit of other aims such as the conservation of the cultural heritage, and the promotion of scientific research, education, participation, collaboration, is highly desirable in SPAMIs and constitutes a factor in favour of a site being included on the List, to the extent in which it remains compatible with the aims of conservation.

b) No limit is imposed on the total number of areas included in the List or on the number of areas any individual Party can propose for inscription. Nevertheless, the Parties agree that sites will be selected on a scientific basis and included in the List according to their qualities; they will have therefore to fulfil the requirements set out by the Protocol and the present criteria.

c) The listed SPAMI and their geographical distribution will have to be representative of the Mediterranean region and its biodiversity. To this end the List will have to represent the highest number possible of types of habitats and ecosystems.

d) The SPAMIs will have to constitute the core of a network aiming at the effective conservation of the Mediterranean heritage. To attain this objective, the Parties will develop their cooperation on bilateral and multilateral bases in the field of conservation and management of natural sites and notably through the establishment of transboundary SPAMIs.

e) The sites included in the SPAMI List are intended to have a value of example and model for the protection of the natural heritage of the region. To this end, the Parties ensure that sites included in the List are provided with adequate legal status, protection measures and management methods and means.

B. GENERAL FEATURES OF THE AREAS THAT COULD BE INCLUDED IN THE SPAMI LIST

1. To be eligible for inclusion in the SPAMI List, an area must fulfil at least one of the general criteria set in Article 8 paragraph 2 of the Protocol. Several of these general criteria can in certain cases be fulfilled by the same area, and such a circumstance cannot but strengthen the case for the inclusion of the area in the List.

2. The regional value is a basic requirement of an area for being included in the SPAMI List. The following criteria should be used in evaluating the Mediterranean interest of an area:

a) Uniqueness
The area contains unique or rare ecosystems, or rare or endemic species.

b) Natural representativeness
The area has highly representative ecological processes, or community or habitat types or other natural characteristics. Representativeness is the degree to which an area represents a habitat type, ecological process, biological community, physiographic feature or other natural characteristic.

c) Diversity
The area has a high diversity of species, communities, habitats or ecosystems.

d) Naturalness

The area has a high degree of naturalness as a result of the lack or low level of human-induced disturbance and degradation.

e) Presence of habitats that are critical to endangered, threatened or endemic species.

f) Cultural representativeness
The area has a high representative value with respect to the cultural heritage, due to the existence of environmentally sound traditional activities integrated with nature which support the well-being of local populations.

3. To be included in the SPAMI List, an area having scientific, educational or aesthetic interest must, respectively, present a particular value for research in the field of natural sciences or for activities of environmental education or awareness or contain outstanding natural features, landscapes or seascapes.

4. Besides the fundamental criteria specified in article 8, paragraph 2, of the Protocol, a certain number of other characteristics and factors should be considered as favourable for the inclusion of the site in the List. These include:

a) the existence of threats likely to impair the ecological, biological, aesthetic or cultural value of the area;

b) the involvement and active participation of the public in general, and particularly of local communities, in the process of planning and management of the area;

c) the existence of a body representing the public, professional, non-governmental sectors and the scientific community involved in the area;

d) the existence in the area of opportunities for sustainable development;

e) the existence of an integrated coastal management plan within the meaning of Article 4 paragraph 3 (e) of the Convention.

C. LEGAL STATUS

1. All areas eligible for inclusion in the SPAMI List must be awarded a legal status guaranteeing their effective long-term protection.

2. To be included in the SPAMI List, an area situated in a zone already delimited over which a Party exercises sovereignty or jurisdiction must have a protected status recognized by the Party concerned.

3. In the case of areas situated, partly or wholly, on the high sea or in a zone where the limits of national sovereignty or jurisdiction have not yet been defined, the legal status, the management plan, the applicable measures and the other elements provided for in Article 9, paragraph 3, of the Protocol will be provided by the neighbouring Parties concerned in the proposal for inclusion in the SPAMI List.

D. PROTECTION, PLANNING AND MANAGEMENT MEASURES

1. Conservation and management objectives must be clearly defined in the texts relating to each site, and will constitute the basis for assessment of the adequacy of the adopted measures and the effectiveness of their implementation at the revisions of the SPAMI List.

2. Protection, planning and management measures applicable to each area must be adequate for the achievement of the conservation and management objectives set for the site in the short and long term, and take in particular into account the threats upon it.

3. Protection, planning and management measures must be based on an adequate knowledge of the elements of the natural environment and of socio-economic and cultural factors that characterize each area. In case of shortcomings in basic knowledge, an area proposed for inclusion in the SPAMI List must have a programme for

the collection of the unavailable data and information.

4. The competence and responsibility with regard to administration and implementation of conservation measures for areas proposed for inclusion in the SPAMI List must be clearly defined in the texts governing each area.

5. In the respect of the specificity characterizing each protected site, the protection measures for a SPAMI must take account of the following basic aspects:

a) the strengthening of the regulation of the release or dumping of wastes and other substances likely directly or indirectly to impair the integrity of the area;

b) the strengthening of the regulation of the introduction or reintroduction of any species into the area;

c) the regulation of any activity or act likely to harm or disturb the species, or that might endanger the conservation status of the ecosystems or species or might impair the natural, cultural or aesthetic characteristics of the area.

d) the regulation applicable to the zones surrounding the area in question.

6. To be included in the SPAMI List, a protected area must have a management body, endowed with sufficient powers as well as means and human resources to prevent and/or control activities likely to be contrary to the aims of the protected area.

7. To be included in the SPAMI List an area will have to be endowed with a management plan. The main rules of this management plan are to be laid down as from the time of inclusion and implemented immediately. A detailed management plan must be presented within three years of the time of inclusion. Failure to respect this obligation entails the removal of the site from the List.

8. To be included in the SPAMI List, an area will have to be endowed with a monitoring programme. This programme should include the identification and monitoring of a certain number of significant parameters for the area in question, in order to allow the assessment of the state and evolution of the area, as well as the effectiveness of protection and management measures implemented, so that they may be adapted if need be. To this end further necessary studies are to be commissioned.

ANNEX II

LIST OF ENDANGERED OR THREATENED SPECIES

Magnoliophyta
Posidonia oceanica
Zostera marina
Zostera noltii

Chlorophyta
Caulerpa ollivieri

Phaeophyta
Cystoseira amentacea (including *var. stricta and var. spicata)*
Cystoseira mediterranea
Cystoseira sedoides
Cystoseira spinosa (including *C. adriatica)*
Cystoseira zosteroides
Laminaria rodriguezii

Rhodophyta
Goniolithon byssoides
Lithophyllum lichenoides
Ptilophora mediterranea
Schimmelmannia schousboei

Porifera
Asbestopluma hypogea
Aplysina sp. plur.
Axinella cannabina
Axinella polypoides
Geodia cydonium
Ircinia foetida
Ircinia pipetta
Petrobiona massiliana
Tethya sp. plur.

Cnidaria
Astroides calycularis
Errina aspera
Gerardia savaglia

Echinodermata
Asterina pancerii
Centrostephanus longispinus
Ophidiaster ophidianus

Bryozoa
Homera lichenoides

Mollusca
Ranella olearia (= Argobuccinum olearium = A. giganteum)
Charonia lampas (= Ch. rubicunda = Ch. nodifera)
Charonia tritonis (= Ch. seguenziae)
Dendropoma petraeum
Erosaria spurca
Gibbula nivosa
Lithophaga lithophaga
Luria lurida (= Cypraea lurida)
Mitra zonata
Patella ferruginea
Patella nigra
Pholas dactylus
Pinna nobilis
Pinna rudis (= P. pernula)
Schilderia achatidea
Tonna galea
Zonaria pyrum

Crustacea
Ocypode cursor
Pachylasma giganteum

Pisces
Acipenser naccarii
Acipenser sturio
Aphanius fasciatus
Aphanius iberus
Cetorhinus maximus
Carcharodon carcharias
Hippocampus ramulosus
Hippocampus hippocampus
Huso huso
Lethenteron zanandreai
Mobula mobular
Pomatoschistus canestrinii
Pomatoschistus tortonesei
Valencia hispanica
Valencia letourneuxi

Reptiles
Caretta caretta
Chelonia mydas
Dermochelys coriacea
Eretmochelys imbricata
Lepidochelys kempii
Trionyx triunguis

Aves
Pandion haliaetus
Calonectris diomedea
Falco eleonorae
Hydrobates pelagicus
Larus audouinii
Numenius tenuirostris
Phalacrocorax aristotelis
Phalacrocorax pygmaeus
Pelecanus onocrotalus
Pelecanus crispus
Phoenicopterus ruber

Puffinus yelkouan
Sterna albifrons
Sterna bengalensis
Sterna sandvicensis

Mammalia
Balaenoptera acutorostrata
Balaenoptera borealis
Balaenoptera physalus
Delphinus delphis
Eubalaena glacialis
Globicephala melas
Grampus griseus
Kogia simus
Megaptera novaeangliae
Mesoplodon densirostris
Monachus monachus
Orcinus orca
Phocoena phocoena
Physeter macracephalus
Pseudorca crassidens
Stenella coeruleoalba
Steno bredanensis
Tursiops truncatus
Ziphius cavirostris

ANNEX III

LIST OF SPECIES WHOSE EXPLOITATION IS REGULATED

Porifera
Hippospongia communis
Spongia agaricina
Spongia officinalis
Spongia zimocca

Cnidaria
Antipathes sp. plur.
Corallium rubrum

Echinodermata
Paracentrotus lividus

Crustacea
Homarus gammarus
Maja squinado
Palinurus elephas
Scyllarides latus
Scyllarus pigmaeus
Scyllarus arctus

Pisces
Alosa alosa
Alosa fallax
Anguilla anguilla
Epinephelus marginatus
Isurus oxyrinchus
Lamna nasus
Lampetra fluviatilis
Petromyzon marinus
Prionace glauca
Raja alba
Sciaena umbra
Squatina squatina
Thunnus thynnus
Umbrina cirrosa
Xiphias gladius

Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Article 4A), Geneva, 1995

Done at Geneva 22 September 1995

Entered into force (not in force)

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

Insert new preambular paragraph 7 bis:

"Recognizing that transboundary movements of hazardous wastes, especially to developing, countries, have a high risk of not constituting an environmentally sound management of hazardous wastes as required by this Convention".

Insert new Article 4A:

"1. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.

2. Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1(i) (a) of the Convention which are destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterized as hazardous under the Convention."

"Annex VII
Parties and other States which are members of OECD, EC, Liechtenstein."

Amendments of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Annex I and Adoption of Annexes VIII and IX), Kuching, 1998

Done at Kuching 27 February 1998

Entered into force 6 November 1998 (not in force for Germany)

Depositary: Secretary-General of the United Nations

Primary source citation: Copy of text provided by the U.S. Department of State

Decision IV/8

Decision regarding Annex VII

The Conference,

Affirming the objectives set out in decision III/1,

Noting that the amendment contained in decision III/1 has not yet come into force and therefore also noting decision IV/7 of this Conference, which urges Parties to ratify this Amendment as a matter of priority.

Further noting the deep concern of Arab and other countries of making any changes to Annex VII,

Reaffirming the importance of the broad ratification and entry into force of the amendment contained in decision III/1 and recognizing the difficulties of modifying Annex VI prior to the entry into force of that amendment;

Further noting the proposals formulated by Parties for inclusion into Annex VI

1. Decides to leave Annex VII unchanged until the amendment contained decision III/1 enters into force;

2. Further decides to explore issues relating to Annex VII and requests the Technical Working Group in cooperation with the Sub-group of Legal and Technical Experts to provide Parties with a detailed and documented analysis that would highlight issues related to Annex VII;

3. Requests those two Groups to report to the fifth meeting of the Conference of the Parties;

4. Confirms that the work to be undertaken is without prejudice to any future decisions concerning Annex VII.

Decision IV/9

AMENDMENT AND ADOPTION OF ANNEXES TO THE CONVENTION

The Conference,

Recalling decision III/1 of the Conference of the Parties, which instructed the Technical Working Group, among other things, to give full priority to completing the work on hazard characterization and the development of lists in order to submit them for approval to the fourth meeting of the Conference of the Parties,

Recalling decision III/12 of the Conference of the Parties, which instructed the Technical Working Group, among other things, to consider ways of taking forward the development of lists of hazardous wastes and the applicable procedure for their review based on the outcome of the work of the Technical Working Group, as well as further developing lists of wastes not covered by this Convention,

Taking note of the work carried out by the Technical Working Group and in particular the development of a list of wastes that are characterized as hazardous pursuant to Article 1, paragraph 1 (a), (list A contained in the note on consolidated lists of wastes and the applicable procedures for their review and adjustment (UNEP/CHW.4/3)) and a list of wastes that are not covered by article 1, paragraph 1 (a), of this Convention (list B contained in the note on consolidated lists of wastes and the applicable procedures for their review and adjustment) as well as the progress made in the development of a procedure for reviewing or adjusting these lists and of an application form required for the placement or removal of wastes on these lists,

Considering that Annex I and Annex III shall remain the factors to characterize wastes as hazardous for the purpose of this Convention, that lists A and B developed by the Technical Working Group provide an expeditious way to facilitate the implementation of this Convention, including Article 4A, by establishing wastes that are and wastes that are not covered by Article 1, paragraph 1 (a), of this Convention, and that these lists should have equal status,

Noting that wastes listed in lists A and B are an elaboration and clarification of the provisions of Article 1, paragraph 1 (a), of this Convention by reference to Annexes I and III,

Recognizing that List A and List B are not intended to be exhaustive,

Taking note that the Open-ended Ad Hoc Committee decided at its third meeting to propose that the Conference of the Parties extend the mandate of the Technical Working Group to take charge of the procedure for reviewing or adjusting the lists of wastes and that the Conference of the Parties adopt the application form for this purpose, as set out in the note on consolidated lists of wastes and the applicable procedures for their review and adjustment.

Taking note that, pursuant to decision IV/6. the Technical Working Group is instructed to keep the lists of wastes under review and to make recommendations to the Conference of the Parties for revisions or adjustments,

Further taking note that, pursuant to decision IV/6, the Technical Working Group is instructed to review the procedure for reviewing or adjusting the lists of wastes, including the Application Form as set out in the note on consolidated lists of wastes and the applicable procedures for their review and adjustment and to submit a proposal for approval at the fifth meeting of the Conference of the Parties,

Decides to adopt the following amendment and adoption of annexes to this Convention:

1. Add the following paragraphs at the end of Annex I:

(a) To facilitate the application of this Convention, and subject to paragraphs (b), (c) and (d), wastes listed in Annex VIII are characterized as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention, and wastes listed in Annex IX are not covered by Article 1, paragraph 1 (a), of this Convention.

(b) Designation of a waste on Annex VIII does not preclude, in a particular case, the use of Annex III to demonstrate that a waste is not hazardous pursuant to Article 1, paragraph 1 (a), of this Convention.

(c) Designation of a waste on Annex IX does not preclude, in a particular case, characterization of such a waste as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention if it contains Annex I material to an extent causing it to exhibit an Annex III characteristic.

(d) Annexes VIII and IX do not affect the application of Article 1, paragraph 1 (a), of this Convention for the purpose of characterization of wastes.

2. Add the following two new annexes to the Convention as its Annexes VIII and IX.

Annex VIII

LIST A

Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a), of this Convention, and their designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

A1 Metal and metal-bearing wastes

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony
- Arsenic
- Beryllium
- Cadmium
- Lead
- Mercury
- Selenium
- Tellurium
- Thallium

but excluding such wastes specifically listed on list B.

A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds
- Beryllium; beryllium compounds
- Cadmium; cadmium compounds
- Lead; lead compounds
- Selenium; selenium compounds
- Tellurium; tellurium compounds

A1030 Wastes having as constituents or contaminants any of the following:

- Arsenic; arsenic compounds
- Mercury; mercury compounds.
- Thallium; thallium compounds

A1040 Wastes having as constituents any of the following:

- Metal carbonyls
- Hexavalent chromium compounds

A1050 Galvanic sludges

A1060 Waste liquors from the pickling of metals

A1070 Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.

A1080 Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics

A1090 Ashes from the incineration of insulated copper wire

A1100 Dusts and residues from gas cleaning systems of copper smelters

A1110 Spent electrolytic solutions from copper electrorefining and electrowinning operations

A1120 Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations

A1130 Spent etching solutions containing dissolved copper

A1140 Waste cupric chloride and copper cyanide catalysts

A1150 Precious metal ash from incineration of printed circuit boards not included on list B 1/

A1160 Waste lead-acid batteries, whole or crushed

A1170 Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous.

A1180 Waste electrical and electronic assemblies or scrap 2/ containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110) 3/

A2 Wastes containing principally inorganic constituents, which may contain metals and organic materials

A2010 Glass waste from cathode-ray tubes and other activated glasses

A2020 Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified on list B

A2030 Waste catalysts but excluding such wastes specified on list B

A2040 Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on list B B2080)

A2050 Waste asbestos (dusts and fibres)

A2060 Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on list B /B2050

A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

A3010 Waste from the production or processing of petroleum coke and bitumen

A3020 Waste mineral oils unfit for their originally intended use

A3030 Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges

A3040 Waste thermal (heat transfer) fluids

A3050 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified on list B (note the related entry on list B B4020)

1/ Note that mirror entry on list B (B1160) does not specify exceptions.
2/ This entry does not include scrap assemblies from electric power generation.
3/ PCBs are at a concentration level of 50 mg/kg or more.

A3060 Waste nitrocellulose

A3070 Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges

A3080 Waste ethers not including those specified on list B

A3090 Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on list B B3100)

A3100 Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on list B B3090)

A3110 Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list B B3110)

A3120 Fluff - light fraction from shredding

A3130 Waste organic phosphorous compounds

A3140 Waste non-halogenated organic solvents but excluding such wastes specified on list B

A3150 Waste halogenated organic solvents

A3160 Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations

A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)

A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more 4/

A3190 Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolitic treatment of organic materials

A4 Wastes which may contain either inorganic or organic constituents

A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B

A4020 Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects

A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, outdated, 5/ or unfit for their originally intended use

A4040 Wastes from the manufacture, formulation and use of wood-preserving chemicals 6/

4/ The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g., 20 mg/kg) for specific wastes.

5/ "Outdated" means unused within the period recommended by the manufacturer.

6/ This entry does not include wood treated with wood preserving chemicals.

A4050 Wastes that contain, consist of or are contaminated with any of the following:

- Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides
- Organic cyanides

A4060 Waste oils/water, hydrocarbons/water mixtures, emulsions

A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B B4010)

A4080 Wastes of an explosive nature (but excluding such wastes specified on list B)

A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry on list B (note the related entry on list B B2120)

A4100 Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified on list B

A4110 Wastes that contain, consist of or are contaminated with any of the following:

- Any congenor of polychlorinated dibenzo-furan
- Any congenor of polychlorinated dibenzo-dioxin

A4120 Wastes that contain, consist of or are contaminated with peroxides

A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics

A4140 Waste consisting of or containing off specification or outdated 7/ chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics

A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known

A4160 Spent activated carbon not included on list B (note the related entry on list B B2060)

Annex IX

LIST B

Wastes contained in the Annex will not be wastes covered by Article 1, paragraph 1 (a), of this Convention unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

7/ "Outdated" means unused within the period recommended by the manufacturer.

B1 Metal and metal-bearing wastes

B1010 Metal and metal-alloy wastes in metallic, non-dispersible form:

- Precious metals (gold, silver, the platinum group, but not mercury)
- Iron and steel scrap
- Copper scrap
- Nickel scrap
- Aluminium scrap
- Zinc scrap
- Tin scrap
- Tungsten scrap
- Molybdenum scrap
- Tantalum scrap
- Magnesium scrap
- Cobalt scrap
- Bismuth scrap
- Titanium scrap
- Zirconium scrap
- Manganese scrap
- Germanium scrap
- Vanadium scrap
- Scrap of hafnium, indium, niobium, rhenium and gallium
- Thorium scrap
- Rare earths scrap

B1020 Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc), of:

- Antimony scrap
- Beryllium scrap
- Cadmium scrap
- Lead scrap (but excluding lead-acid batteries)
- Selenium scrap
- Tellurium scrap

B1030 Refractory metals containing residues

B1040 Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous

B1050 Mixed non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics 8/

B1060 Waste selenium and tellurium in metallic elemental form including powder

B1070 Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics

B1080 Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentration such as to exhibit Annex III characteristics or exhibiting hazard characteristic H4.3 9/

B1090 Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury

8/ Note that even where low level contamination with Annex I materials initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly.

9/ The status of zinc ash is currently under review and there is a recommendation with the United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

B1100 Metal-bearing wastes arising from melting, smelting and refining of metals:

- Hard zinc spelter
- Zinc-containing drosses:
  - — Galvanizing slab zinc top dross (>90% Zn)
  - — Galvanizing slab zinc bottom dross (>92% Zn)
  - — Zinc die casting dross (>85% Zn)
  - — Hot dip galvanizers slab zinc dross (batch)(>92% Zn)
  - — Zinc skimmings
- Aluminium skimmings (or skims) excluding salt slag
- Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extend that they exhibit Annex III hazard characteristics
- Wastes of refractory linings, including crucibles, originating from copper smelting
- Slags from precious metals processing for further refining
- Tantalum-bearing tin slags with less than 0.5% tin

B1110 Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap 10/ (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A A1180)
- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse, 11/ and not for recycling or final disposal 12/

B1120 Spent catalysts excluding liquids used as catalysts, containing any of:

Transition metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) on list A:	Scandium	Titanium
	Vanadium	Chromium
	Manganese	Iron
	Cobalt	Nickel
	Copper	Zinc
	Yttrium	Zirconium
	Niobium	Molybdenum
	Hafnium	Tantalum
	Tungsten	Rhenium
Lanthanides (rare earth metals):	Lanthanum	Cerium
	Praseodymium	Neody
	Samarium	Europium
	Gadolinium	Terbium
	Dysprosium	Holmium
	Erbium	Thulium
	Ytterbium	Lutetium

B1130 Cleaned spent precious-metal-bearing catalysts

B1140 Precious-metal-bearing residues in solid form which contain traces of inorganic cyanides

B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labelling

B1160 Precious-metal ash from the incineration of printed circuit boards (note the related entry on list A A1150)

10/ This entry does not include scrap from electrical power generation.
11/ Reuse can include repair, refurbishment or upgrading, but not major reassembly.
12/ In some countries these materials destined for direct re-use are not considered wastes.

B1170 Precious-metal ash from the incineration of photographic film

B1180 Waste photographic film containing silver halides and metallic silver

B1190 Waste photographic paper containing silver halides and metallic silver

B1200 Granulated slag arising from the manufacture of iron and steel

B1210 Slag arising from the manufacture of iron and steel including slags as a source of TiO_2 and vanadium

B1220 Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301) mainly for construction

B1230 Mill scaling arising from the manufacture of iron and steel

B1240 Copper oxide mill-scale

B2 Wastes containing principally inorganic constituents, which may contain metals and organic materials

B2010 Wastes from mining operations in non-dispersible form:

- Natural graphite waste
- Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise
- Mica waste
- Leucite, nepheline and nepheline syenite waste
- Feldspar waste
- Fluorspar waste
- Silica wastes in solid form excluding those used in foundry operations

B2020 Glass waste in non-dispersible form:

- Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses

B2030 Ceramic wastes in non-dispersible form:

- Cermet wastes and scrap (metal ceramic composites)
- Ceramic based fibres not elsewhere specified or included

B2040 Other wastes containing principally inorganic constituents:

- Partially refined calcium sulphate produced from flue-gas desulphurization (FGD)
- Waste gypsum wallboard or plasterboard arising from the demolition of buildings
- Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301 and DIN 8201) mainly for construction and abrasive applications
- Sulphur in solid form
- Limestone from the production of calcium cyanamide (having a pH less than 9)
- Sodium, potassium, calcium chlorides
- Carborundum (silicon carbide)
- Broken concrete
- Lithium-tantalum and lithium-niobium containing glass scraps

B2050 Coal-fired power plant fly-ash, not included on list A (note the related entry on list A A2060)

B2060 Spent activated carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on list A A4160)

B2070 Calcium fluoride sludge

B2080 Waste gypsum arising from chemical industry processes not included on list A (note the related entry on list A A2040)

B2090 Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)

B2100 Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes

B2110 Bauxite residue ("red mud") (pH moderated to less than 11.5)

B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11. 5, which are not corrosive or otherwise hazardous (note the related entry on list A A4090)

B3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

B3010 Solid plastic waste:

The following plastic or mixed plastic materials, provided they are not mixed with other wastes and are prepared to a specification:

- Scrap plastic of non-halogenated polymers and co-polymers, including but not limited to the following 13/:

  — ethylene
  — styrene
  — polypropylene
  — polyethylene terephthalate
  — acrylonitrile
  — butadiene
  — polyacetals
  — polyamides
  — polybutylene terephthalate
  — polycarbonates
  — polyethers
  — polyphenylene sulphides
  — acrylic polymers
  — alkanes C10-C13 (plasticiser)
  — polyurethane (not containing CFCs)
  — polysiloxanes
  — polymethyl methacrylate
  — polyvinyl alcohol
  — polyvinyl butyral
  — polyvinyl acetate

- Cured waste resins or condensation products including the following:

  — urea formaldehyde resins
  — phenol formaldehyde resins
  — melamine formaldehyde resins

13/ It is understood that such scraps are completely polymerized.

— epoxy resins
— alkyd resins
— polyamides

- The following fluorinated polymer wastes 14/

— perfluoroethylene/propylene (FEP)
— perfluoroalkoxy alkane (PFA)
— perfluoroalkoxy alkane (MFA)
— polyvinylfluoride (PVF)
— polyvinylidenefluoride (PVDF)

B3020 Paper, paperboard and paper product wastes

The following materials, provided they are not mixed with hazardous wastes:

Waste and scrap of paper or paperboard of:

- unbleached paper or paperboard or of corrugated paper or paperboard
- other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass
- paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)
- other, including but not limited to 1) laminated paperboard 2) unsorted scrap.

B3030 Textile wastes

The following materials, provided they are not mixed with other wastes and are prepared to a specification:

- Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)

— not carded or combed
— other

- Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock

— noils of wool or of fine animal hair
— other waste of wool or of fine animal hair
— waste of coarse animal hair

- Cotton waste (including yarn waste and garnetted stock)

— yarn waste (including thread waste)
— garnetted stock
— other

- Flax tow and waste

- Tow and waste (including yarn waste and garnetted stock) of true hemp (Cannabis sativa L.)

- Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)

- Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave

- Tow, noils and waste (including yarn waste and garnetted stock) of coconut

14/ — Post-consumer wastes are excluded from this entry
— Wastes shall not be mixed
— Problems arising from open-burning practices to be considered

- Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or Musa textilis Nee)

- Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included

- Waste (including noils, yarn waste and garnetted stock) of man-made fibres

  — of synthetic fibres
  — of artificial fibres

- Worn clothing and other worn textile articles

- Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials

  — sorted
  — other

B3040 Rubber wastes

The following materials, provided they are not mixed with other wastes:

- Waste and scrap of hard rubber (e.g., ebonite)
- Other rubber wastes (excluding such wastes specified elsewhere)

B3050 Untreated cork and wood waste:

- Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
- Cork waste: crushed, granulated or ground cork

B3060 Wastes arising from agro-food industries provided it is not infectious:

- Wine lees
- Dried and sterilized vegetable waste, residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
- Degras: residues resulting from the treatment of fatty substances or animal or vegetable waxes
- Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
- Fish waste
- Cocoa shells, husks, skins and other cocoa waste
- Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption

B3070 The following wastes:

- Waste of human hair
- Waste straw
- Deactivated fungus mycelium from penicillin production to be used as animal feed

B3080 Waste parings and scrap of rubber

B3090 Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry on list A A3100)

B3100 Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry on list A A3090)

B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list A A3110)

B3120 Wastes consisting of food dyes

B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides

B3140 Waste pneumatic tyres, excluding those destined for Annex IVA operations

B4 Wastes which may contain either inorganic or organic constituents

B4010 Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry on list A A4070)

B4020 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water-based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on list A A3050)

B4030 Used single-use cameras, with batteries not included on list A

Treaty and Protocol on the Southeast Asia Nuclear Weapon-Free Zone, Bangkok, 1995

Done at Bangkok 15 December 1995

Entered into force 27 March 1997

Depositary: Thailand

Primary source citation: Copy of text provided by the United Nations

The States Parties to this Treaty:
Desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations;

Determined to take concrete action which will contribute to the progress towards general and completedisarmament of nuclear weapons, and to the promotion of international peace and security;

Reaffirming the desire of the Southeast Asian States to maintain peace and stability in the region in the spirit of peaceful coexistence and mutual understanding and cooperation as enunciated in various communiqués, declarations and other legal instruments;

Recalling the Declaration on the Zone of Peace, Freedom and Neutrality (ZOPFAN) signed in Kuala Lumpur on 27 November 1971 and the Programme of Action on ZOPFAN adopted at the 26th ASEAN Ministerial Meeting in Singapore in July 1993;

Convinced that the establishment of a Southeast Asia Nuclear Weapon-Free Zone, as an essential component of the ZOPFAN, will contribute towards strengthening the security of States within the Zone and towards enhancing international peace and security as a whole;

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing towards international peace and security;

Recalling Article VII of the NPT which recognizes the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

Recalling the Final Document of the Tenth Special Session of the United Nations General Assembly which encourages the establishment of nuclear weapon-free zones;

Recalling the Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted at the 1995 Review and Extension Conference of the Parties to the NPT, that the cooperation of all the nuclear-weapon States and their respect and support for the relevant protocols is important for the maximum effectiveness of this nuclear weapon-free zone treaty and its relevant protocols.

Determined to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive material;

Have agreed as follows:

Article 1
USE OF TERMS

For the purposes of this Treaty and its Protocol:

(*a*) "Southeast Asia Nuclear Weapon-Free Zone", hereinafter referred to as the "Zone", means the area comprising the territories of all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam, and their respective continental shelves and Exclusive Economic Zones (EEZ);

(*b*) "territory" means the land territory, internal waters, territorial sea, archipelagic waters, the seabed and the subsoil thereof and the airspace above them;

(*c*) "nuclear weapon" means any explosive device capable of releasing nuclear energy in an uncontrolled manner but does not include the means of transport or delivery of such device if separable from and not an indivisible part thereof;

(*d*) "station" means to deploy, emplace, implant, install, stockpile or store;

(*e*) "radioactive material" means material that contains radionuclides above clearance or exemption levels recommended by the International Atomic Energy Agency (IAEA);

(*f*) "radioactive wastes" means material that contains or is contaminated with radionuclides at concentrations or activities greater than clearance levels recommended by the IAEA and for which no use is foreseen; and

(*g*) "dumping" means

(i) any deliberate disposal at sea, including seabed and subsoil insertion, of radioactive wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, and

(ii) any deliberate disposal at sea, including seabed and subsoil insertion, of vessels, aircraft, platforms or other man-made structures at sea, containing radioactive material,

but does not include the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures.

Article 2
APPLICATION OF THE TREATY

1. This Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which this Treaty is in force.

2. Nothing in this Treaty shall prejudice the rights or the exercise of these rights by any State under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft, and consistent with the Charter of the United Nations.

Article 3
BASIC UNDERTAKINGS

1. Each State Party undertakes not to, anywhere inside or outside the Zone:

(*a*) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;

(*b*) station or transport nuclear weapons by any means; or
(*c*) test or use nuclear weapons.

2. Each State Party also undertakes not to allow, in its territory, any other State to:

(*a*) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;
(*b*) station nuclear weapons; or
(*c*) test or use nuclear weapons.

3. Each State Party also undertakes not to:

(*a*) dump at sea or discharge into the atmosphere anywhere within the Zone any radioactive material or wastes;

(*b*) dispose radioactive material or wastes on land in the territory of or under the jurisdiction of other States except as stipulated in Paragraph 2(e) of Article 4; or

(*c*) allow, within its territory, any other State to dump at sea or discharge into the atmosphere any radioactive material or wastes.

4. Each State Party undertakes not to:

(*a*) seek or receive any assistance in the commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article; or

(*b*) take any action to assist or encourage the commission of any act in violation of the provisions of paragraphs 1, 2 and 3 of this Article.

Article 4
USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES

1. Nothing in this Treaty shall prejudice the right of the States Parties to use nuclear energy, in particular for their economic development and social progress.

2. Each State Party therefore undertakes:

(*a*) to use exclusively for peaceful purposes nuclear material and facilities which are within its territory and areas under its jurisdiction and control;

(*b*) prior to embarking on its peaceful nuclear energy programme, to subject its programme to rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA for the protection of health and minimization of danger to life and property in accordance with Paragraph 6 of Article III of the Statute of the IAEA;

(*c*) upon request, to make available to another State Party the assessment except information relating to personal data, information protected by intellectual property rights or by industrial or commercial confidentiality, and information relating to national security;

(*d*) to support the continued effectiveness of the international non-proliferation system based on the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the IAEA safeguards system; and

(*e*) to dispose radioactive wastes and other radioactive material in accordance with IAEA standards and procedures on land within its territory or on land within the territory of another State which has consented to such disposal.

3. Each State Party further undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to:

(*a*) any non-nuclear-weapon State except under conditions subject to the safeguards required by Paragraph 1 of Article III of the NPT; or

(*b*) any nuclear-weapon State except in conformity with applicable safeguards agreements with the IAEA.

Article 5
IAEA SAFEGUARDS

Each State Party which has not done so shall conclude an agreement with the IAEA for the application of full scope safeguards to its peaceful nuclear activities not later than eighteen months after the entry into force for that State Party of this Treaty.

Article 6
EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Each State Party which has not acceded to the Convention on Early Notification of a Nuclear Accident shall endeavour to do so.

Article 7
FOREIGN SHIPS AND AIRCRAFT

Each State Party, on being notified, may decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters in a manner not governed by the rights of innocent passage, archipelagic sea lanes passage or transit passage.

Article 8
ESTABLISHMENT OF THE COMMISSION FOR THE SOUTHEAST ASIA NUCLEAR WEAPON-FREE ZONE

1. There is hereby established a Commission for the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Commission".

2. All States Parties are *ipso facto* members of the Commission. Each State Party shall be represented by its Foreign Minister or his representative accompanied by alternates and advisers.

3. The function of the Commission shall be to oversee the implementation of this Treaty and ensure compliance with its provisions.

4. The Commission shall meet as and when necessary in accordance with the provisions of this Treaty including upon the request of any State Party. As far as possible, the Commission shall meet in conjunction with the ASEAN Ministerial Meeting.

5. At the beginning of each meeting, the Commission shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next meeting.

6. Unless otherwise provided for in this Treaty, two-thirds of the members of the Commission shall be present to constitute a quorum.

7. Each member of the Commission shall have one vote.

8. Except as provided for in this Treaty, decisions of the Commission shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

9. The Commission shall, by consensus, agree upon and adopt rules of procedure for itself as well as financial rules governing its funding and that of its subsidiary organs.

Article 9
THE EXECUTIVE COMMITTEE

1. There is hereby established, as a subsidiary organ of the Commission, the Executive Committee.

2. The Executive Committee shall be composed of all States Parties to this Treaty. Each State Party shall be represented by one senior official as its representative, who may be accompanied by alternates and advisers.

3. The functions of the Executive Committee shall be to:

(*a*) ensure the proper operation of verification measures in accordance with the provisions on the Control System as stipulated in Article 10;

(*b*) consider and decide on requests or clarification and for a fact-finding mission;

(c) set up a fact-finding mission in accordance with the Annex of this Treaty;

(*d*) consider and decide on the findings of a fact-finding mission and report to the Commission;

(*e*) request the Commission to convene a meeting when appropriate and necessary;

(*f*) conclude such agreements with the IAEA or other international organizations as referred to in Article 18 on behalf of the Commission after being duly authorized to do so by the Commission; and

(*g*) carry out such other tasks as may, from time to time, be assigned by the Commission.

4. The Executive Committee shall meet as and when necessary for the efficient exercise of its functions. As far as possible, the Executive Committee shall meet in conjunction with the ASEAN Senior Officials Meeting.

5. The Chairman of the Executive Committee shall be the representative of the Chairman of the Commission. Any submission or communication made by a State Party to the Chairman of the Executive Committee shall be disseminated to the other members of the Executive Committee.

6. Two-thirds of the members of the Executive Committee shall be present to constitute a quorum.

7. Each member of the Executive Committee shall have one vote.

8. Decisions of the Executive Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

Article 10
CONTROL SYSTEM

1. There is hereby established a control system for the purpose of verifying compliance with the obligations of the States parties under this Treaty.

2. The Control System shall comprise:

(*a*) the IAEA safeguards system as provided for in Article 5;

(*b*) report and exchange of information as provided for in Article 11;

(*c*) request for clarification as provided for in Article 12; and

(*d*) request and procedures for a fact-finding mission as provided for in Article 13.

Article 11
REPORT AND EXCHANGE OF INFORMATION

1. Each State Party shall submit reports to the Executive Committee on any significant event within its territory and areas under its jurisdiction and control affecting the implementation of this Treaty.

2. The States Parties may exchange information on matters arising under or in relation to this Treaty.

Article 12
REQUEST FOR CLARIFICATION

1. Each State Party shall have the right to request another State Party for clarification concerning any situation which may be considered ambiguous or which may give rise to doubts about the compliance of that State Party with this Treaty. It shall inform the Executive Committee of such a request. The requested State Party shall duly respond by providing without delay the necessary information and inform the Executive Committee of its reply to the requesting State Party.

2. Each State Party shall have the right to request the Executive Committee to seek clarification from another State Party concerning any situation which may be considered ambiguous or which may give rise to doubts about compliance of that State Party with this Treaty. Upon receipt of such a request, the Executive Committee shall consult the State Party from which clarification is sought for the purpose of obtaining the clarification requested.

Article 13
REQUEST FOR A FACT-FINDING MISSION

A State Party shall have the right to request the Executive Committee to send a fact-finding mission to another State Party in order to clarify and resolve a situation which may be considered ambiguous or which may give rise to doubts about compliance with the provisions of this Treaty, in accordance with the procedure contained in the Annex to this Treaty.

Article 14
REMEDIAL MEASURES

1. In case the ExecutiveCommittee decides in accordance with the Annex that there is a breach of this Treaty by a State Party, that State Party shall, within a reasonable time, take all steps necessary to bring itself full compliance with this Treaty and shall promptly inform the Executive Committee of the action taken or proposed to be taken by it.

2. Where a State Party fails or refuses to comply with the provisions of Paragraph 1 of this Article, the Executive Committee shall request the Commission to convene a meeting in accordance with the provisions of Paragraph 3 (*e*) of Article 9.

3. At the meeting convened pursuant to Paragraph 2 of this Article, the Commission shall consider the emergent situation and shall decide on any measure it deems appropriate to cope with the situation, including the submission of the matter to the IAEA and, where the situation might endanger international peace and security, the Security Council and the General Assembly of the United Nations.

4. In the event of breach of the Protocol attached to this Treaty by a State Party to the Protocol, the Executive Committee shall convene a special meeting of the Commission to decide on appropriate measures to be taken.

Article 15
SIGNATURE, RATIFICATION, ACCESSION, DEPOSIT AND REGISTRATION

1. This Treaty shall be open for signature by all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

2. This Treaty shall be subject to ratification in accordance with the constitutional procedure of the signatory States. The instruments of ratification shall be deposited with the Government of the Kingdom of Thailand which is hereby designated as the Depositary State.

3. This Treaty shall be open for accession. The instruments of accession shall be deposited with the Depositary State.

4. The Depositary State shall inform the other States Parties to this Treaty on the deposit of instruments of ratification or accession.

5. The Depositary State shall register this Treaty and its Protocol pursuant to Article 102 of the Charter of the United Nations.

Article 16
ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of the deposit of the seventh instrument of ratification and/or accession.

2. For States which ratify or accede to this Treaty after the date of this seventh instrument of ratification or accession, this Treaty shall enter into force on the date deposit of its instrument of ratification or accession.

Article 17
RESERVATIONS

This Treaty shall not be subject to reservations.

Article 18
RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Commission may conclude such agreements with the IAEA or other international organizations as it considers likely to facilitate the efficient operation of the Control System established by this Treaty.

Article 19
AMENDMENTS

1. Any State Party may propose amendments to this Treaty and its Protocol and shall submit its proposals to the Executive Committee, which shall transmit them to all the other States Parties. The Executive Committee shall immediately request the Commission to convene a meeting to examine the proposed amendments. The quorum required for such a meeting shall be all the members of the Commission. Any amendment shall be adopted by a consensus decision of the Commission.

2. Amendments adopted shall enter into force 30 days after the receipt by the Depositary State of the seventh instrument of acceptance from the States Parties.

Article 20
REVIEW

Ten years after this Treaty enters into force, a meeting of the Commission shall be convened for the purpose of reviewing the operation of this Treaty. A meeting of the Commission for the same purpose may also be convened at anytime thereafter if there is consensus among all its members.

Article 21
SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation of the provision of this Treaty shall be settled by peaceful means as may be agreed upon by the States Parties to the dispute. If within one month, the parties to the dispute are unable to achieve a peaceful settlement of the dispute by negotiation, mediation, enquiry or conciliation, any of the parties concerned shall, with the prior consent of the other parties concerned, refer the dispute to arbitration or to the International Court of Justice.

Article 22
DURATION AND WITHDRAWAL

1. This Treaty shall remain in force indefinitely.

2. In the event of a breach by any State Party of this Treaty essential to the achievement of the objectives of this Treaty, every other State Party shall have the right to withdraw from this Treaty.

3. Withdrawal under Paragraph 2 of Article 22, shall be effected by giving notice twelve months in advance to the members of the Commission.

IN WITNESS WHEREOF, the undersigned have signed this Treaty.

DONE at Bangkok, this fifteenth day of December, thousand nine hundred and ninety-five, in one original in the English language.

ANNEX
Procedure for a Fact-Finding Mission

1. The State Party requesting a fact-finding mission as provided in Article 12, hereinafter referred to as the "requesting State", shall submit the request to the Executive Committee specifying the following:

(*a*) the doubts or concerns and the reasons for such doubts or concerns;

(*b*) the location in which the situation which gives rise to doubts has allegedly occurred;

(*c*) the relevant provisions of this Treaty about which doubts of compliance have arisen; and

(*d*) any other relevant information.

2. Upon receipt of a request for a fact-finding mission, the Executive Committee shall:

(*a*) immediately inform the State Party to which the fact-finding mission is requested to be sent, hereinafter referred to as the "receiving State", about the receipt of the request; and

(*b*) not later than 3 weeks after receiving the request, decide if the request complies with the provisions of Paragraph 1 and whether or not it is frivolous, abusive or clearly beyond the scope of this Treaty. Neither the requesting nor receiving State Party shall participate in such decisions.

3. In case the Executive Committee decides that the request does not comply with the provisions of Paragraph 1, or that it is frivolous, abusive or clearly beyond the scope of this Treaty, it shall take no further action on the request and inform the requesting State and the receiving State accordingly.

4. In the event that the Executive Committee decides that the request complies with the provisions of Paragraph 1 and that it is not frivolous, abusive or clearly beyond the scope of this Treaty, it shall immediately forward the request for a fact-finding mission to the receiving State, indicating, *inter alia*, the proposed date for sending the mission. The proposed date shall not be later than 3 weeks from the time the receiving State receives the request for a fact-finding mission. The Executive Committee shall also immediately set up a fact-finding mission consisting of 3 inspectors from the IAEA who are neither nationals of the requesting nor receiving State.

5. The receiving State shall comply with the request for a fact-finding mission referred to in Paragraph 4. It shall cooperate with the Executive Committee in order to facilitate the effective functioning of the fact-finding mission, *inter alia*, by promptly providing unimpeded access of the fact-finding mission to the location in question. The receiving State shall accord to the members of the fact-finding mission such privileges and immunities as are necessary for them to exercise their functions effectively, including inviolability of all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken for the purpose of the mission.

6. The receiving State shall have the right to take measures to protect sensitive installations and to prevent disclosures of confidential information and data not related to this Treaty.

7. The fact-finding mission, in the discharge of its functions, shall:

(*a*) respect the laws and regulations of the receiving State;

(*b*) refrain from activities inconsistent with the objectives and purposes of this Treaty;

(*c*) submit preliminary or interim reports to the Executive Committee; and

(*d*) complete its task without undue delay and shall submit its final report to the Executive Committee within a reasonable time upon completion of its work.

8. The Executive Committee shall:

(*a*) consider the reports submitted by the fact-finding mission and reach a decision on whether or not there is a breach of this Treaty;

(*b*) immediately communicate its decision to the requesting State and the receiving State; and

(*c*) present a full report on its decision to the Commission.

9. In the event that the receiving State refuses to comply with the request for a fact-finding mission in accordance with Paragraph 4, the requesting State through the Executive Committee shall have the right to request for a meeting of the Commission. The Executive Committee shall immediately request the Commission to convene a meeting in accordance with Paragraph 3(*e*) of Article 9.

Protocol to The Treaty on Southeast Asia Nuclear Weapon-Free Zone

The States Parties to this Protocol,

Desiring to contribute to efforts towards achieving general and complete disarmament of nuclear weapons, and thereby ensuring international peace and security, including in Southeast Asia;

Noting the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, signed at Bangkok on the fifteenth day of December, one thousand nine hundred and ninety-five;

Have agreed as follows:

Article 1

Each State Party undertakes to respect the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Treaty" and not to contribute to any act which constitutes a violation of the Treaty or its Protocol by States Parties to them.

Article 2

Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone.

Article 3

This Protocol shall be open for signature by the People's Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 4

Each State Party undertakes, by written notification to the Depositary State, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 19 thereof.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordi-

nary events, related to the subject-matter of this Protocol, have jeopardized its supreme national interests. It shall give notice of such withdrawal to the Depositary State twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme national interests.

Article 6

This Protocol shall be subject to ratification.

Article 7

This Protocol shall enter into force for each State Party on the date of its deposit of its instrument of ratification with the Depositary State. The Depositary State shall inform the other States Parties to she Treaty and to this Protocol on the deposit of instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at Bangkok this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.

African Nuclear Weapon Free Zone Treaty and Protocols, Cairo, 1996

Done at Cairo 11 April 1996

Entered into force (not in force)

Depositary: Organization of African Unity

Primary source citation: Copy of text provided by the United Nations

The Parties to this Treaty,

Guided by the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity (hereinafter referred to as OAU) at its first ordinary session, held at Cairo from 17 to 21 July 1964 (AHG/Res.11(1)), in which they solemnly declared their readiness to undertake, through an international agreement to be concluded under United Nations auspices, not to manufacture or acquire control of nuclear weapons.

Guided also, by the resolutions of the fifty-fourth and fifty-sixth ordinary sessions of the Council of Ministers of OAU, held at Abuja from 27 May to 1 June 1991 and at Dakar from 22 to 28 June 1992 respectively, (CM/Res.1342 LIV) and CM/Res 1395 (LVI)),which affirmed that the evolution of the international situation was conducive to the implementation of the Cairo Declaration, as well as the relevant provisions of the 1986 CAU Declaration on Security, Disarmament and Development,

Recalling United Nations General Assembly resolution 3472 B (XXX) of 11 December 1975, in which it considered nuclear-weapon-free zones one of the most effective means for preventing the proliferation, both horizontal and vertical, of nuclear weapons,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons, as well as of the obligations of all States to contribute to this end,

Convinced also that the African nuclear-weapon-free zone will constitute an important step towards strengthening the nonproliferation regime, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament and enhancing regional and international peace and security.

Aware that regional disarmament measures contribute to global disarmament efforts,

Believing that the African nuclear-weapon-free zone will protect African States against possible nuclear attacks on their territories,

Noting with satisfaction existing NWFZs and recognising that the establishment of other NWFZs, especially in the Middle East, would enhance the security of States Parties to the African NWFZ,

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as the NPT) and the need for the implementation of all its provisions,

Desirous of taking advantage of article IV of the NPT, which recognizes the inalienable right of all States Parties to develop research on, production and use of nuclear energy for peaceful purposes without discrimination and to facilitate the fullest possible exchange of equipment, materials and scientific and technological information for such purposes,

Determined to promote regional cooperation for the development and practical application of nuclear energy for peaceful purposes in the interest of sustainable social and economic development of the Africa continent,

Determined to keep Africa free of environmental pollution by radioactive wastes and other radioactive matter,

Welcoming the cooperation of all States and governmental and non-governmental organizations for the attainment of these objectives,

Have decided by this treaty to establish the African NWFZ and hereby agree as follows:

Article 1

Definition/Usage of terms

For the purpose of this Treaty and its Protocols:

(a) "African nuclear-weapon-free zone" means the territory of the continent of Africa, islands States members of OAU and all islands considered by the Organization of African Unity in its resolutions to be part of Africa;

(b) "Territory" means the land territory, internal waters, territorial seas and archipelagic waters and the airspace above them as well as the sea bed and subsoil beneath;

(c) "Nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

(d) "Stationing" means implantation, emplacement, transport on land or inland waters, stockpiling, storage, installation and deployment;

(e) "Nuclear installation" means a nuclear-power reactor, a nuclear research reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant, a separate storage installation and any other installation or location in or at which fresh or irradiated nuclear material or significant quantities of radioactive materials are present.

(f) "Nuclear material" means any source material or special fissionable material as defined in Article XX of the Statute of the International Atomic Energy Agency (IAEA) and as amended from time to time by the IAEA.

Article 2

Application of the Treaty

1. Except where otherwise specified, this Treaty and its Protocols shall apply to the territory within the African nuclear-weapon-free zone, as illustrated in the map in annex I.

2. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any state under international law with regards to freedom of the seas.

Article 3

Renunciation of nuclear explosive devices

Each Party undertakes:

(a) Not to conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere;

(b) Not to seek or receive any assistance in the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device;

(c) Not to take any action to assist or encourage the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device.

Article 4

Prevention of stationing of nuclear explosive devices

1. Each Party undertakes to prohibit, in its territory, the stationing of any nuclear explosive device.

2. Without prejudice to the purposes and objectives of the treaty, each party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.

Article 5

Prohibition of testing of nuclear explosive devices

Each Party undertakes:

(a) Not to test any nuclear explosive device;

(b) To prohibit in its territory the testing of any nuclear explosive device;

(c) Not to assist or encourage the testing of any nuclear explosive device by any State anywhere.

Article 6

Declaration, dismantling, destruction or conversion of nuclear explosive devices and the facilities for their manufacture

Each Party undertakes:

(a) To declare any capability for the manufacture of nuclear explosive devices;

(b) To dismantle and destroy any nuclear explosive device that it has manufactured prior to the coming into force of this Treaty;

(c) To destroy facilities for the manufacture of nuclear explosive devices or, where possible, to convert them to peaceful uses;

(d) To permit the International Atomic Energy Agency (hereinafter referred to as IAEA) and the Commission established in article 12 to verify the processes of dismantling and destruction of the nuclear explosive devices, as well as the destruction or conversion of the facilities for their production.

Article 7

Prohibition of dumping of radioactive wastes

Each Party undertakes:

(a) To effectively implement or to use as guidelines the measures contained in the Bamako Convention on the Ban of the Import into Africa and Control of Transboundary Movement and Management of Hazardous Wastes within Africa in so far as it is relevant to radioactive waste;

(b) Not to take any action to assist or encourage the dumping of radioactive wastes and other radioactive matter anywhere within the African nuclear-weapon-free zone.

Article 8

Peaceful nuclear activities

1. Nothing in this Treaty shall be interpreted as to prevent the use of nuclear science and technology for peaceful purposes.

2. As part of their efforts to strengthen their security, stability and development, the Parties undertake to promote individually and collectively the use of nuclear science and technology for economic and social development. To this end they undertake to establish and strengthen mechanisms for cooperation at the bilateral, subregional and regional levels.

3. Parties are encouraged to make use of the programme of assistance available in IAEA and, in this connection, to strengthen cooperation under the African Regional Cooperation Agreement for Research, Training and Development Related to Nuclear Science and Technology (hereinafter referred to as AFRA).

Article 9

Verification of Peaceful Uses

Each Party undertakes:

(a) To conduct all activities for the peaceful use of nuclear energy under strict non-proliferation measures to provide assurance of exclusively peaceful uses;

(b) To conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance with the undertakings in subparagraph (a) of this article;

(c) Not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to any non-nuclear-weapon State unless subject to a comprehensive safeguards agreement concluded with IAEA.

Article 10

Physical protection of nuclear materials and facilities

Each Party undertakes to maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling. To that end each Party, inter alia, undertakes to apply measures of physical protection equivalent to those provided for in the Convention on Physical Protection of Nuclear Material and in recommendations and guidelines developed by IAEA for that purpose.

Article 11

Prohibition of armed attack on nuclear installations

Each Party undertakes not to take, or assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear installations in the African nuclear-weapon-free zone.

Article 12

Mechanism for compliance

1. For the purpose of ensuring compliance with their undertakings under this Treaty, the Parties agree to establish the African Commission on Nuclear Energy (hereafter referred to as the Commission) as set out in annex III.

2. The Commission shall be responsible inter alia for:

   (a) Collating the reports and the exchange of information as provided for in article 13;

   (b) Arranging consultations as provided for in annex IV, as well as convening conferences of Parties on the concurrence of simple majority of State Parties on any matter arising from the implementation of the Treaty;

   (c) Reviewing the application to peaceful nuclear activities of safeguards by IAEA as elaborated in annex II;

   (d) Bringing into effect the complaints procedure elaborated in annex IV;

   (e) Encouraging regional and sub-regional programmes for cooperation in the peaceful uses of nuclear science and technology;

   (f) Promoting international cooperation with extra-zonal States for the peaceful uses of nuclear science and technology.

3. The Commission shall meet in ordinary session once a year, and may meet in extraordinary session as may be required by the complaints and settlement of disputes procedure in annex IV.

Article 13

Report and exchanges of information

1. Each Party shall submit an annual report to the commission on its nuclear activities as well as other matters relating to the Treaty, in accordance with the format for reporting to be developed by the Commission.

2. Each Party shall promptly report to the Commission any significant event affecting the implementation of the Treaty.

3. The Commission shall request the IAEA to provide it with an annual report on the activities of AFRA.

Article 14

Conference of Parties

1. A Conference of all Parties to the Treaty shall be convened by the Depositary as soon as possible after the entry into force of the Treaty to, inter alia, elect members of the Commission and determine its headquarters. Further conferences of State Parties shall be held as necessary and at least every two years, and convened in accordance with paragraph 2 (b) of article 12.

2. The Conference of all Parties to the Treaty shall adopt the Commission's budget and a scale of assessment to be paid by the State Parties.

Article 15

Interpretation of the Treaty

Any dispute arising out of the interpretation of the Treaty shall be settled by negotiation, by recourse to the Commission or another procedure agreed to by the Parties, which may include recourse to an arbitral panel or to the International Court of Justice.

Article 16

Reservations

This Treaty shall not be subject to reservations.

Article 17

Duration

This Treaty shall be of unlimited duration and shall remain in force indefinitely.

Article 18

Signature, ratification and entry into force

1. This Treaty shall be open for signature by any State in the African nuclear-weapon-free zone. It shall be subject to ratification.

2. It shall enter into force on the date of deposit of the twenty-eighth instrument of ratification.

3. For a signatory that ratifies this Treaty after the date of the deposit of the twenty-eighth instrument of ratification, it shall enter into force for that signatory on the date of deposit of its instrument of ratification.

Article 19

Amendments

1. Any amendments to the Treaty proposed by a Party shall be submitted to the Commission, which shall circulate it to all Parties.

2. Decision on the adoption of such an amendment shall be taken by a two-thirds majority of the Parties either through written communication to the Commission or through a conference of Parties convened upon the concurrence of a simple majority.

3. An amendment so adopted shall enter into force for all parties after receipt by the Depositary of the instrument of ratification by the majority of Parties.

Article 20

Withdrawal

1. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events, related to the subject-matter of this Treaty, have jeopardized its supreme interests.

2. Withdrawal shall be effected by a Party giving notice, which includes a statement of the extraordinary events it regards as having jeopardized its supreme interest, twelve months in advance to the Depositary. The Depositary shall circulate such notice to all other parties.

Article 21

Depositary functions

1. This Treaty, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary-General of OAU, who is hereby designated as Depositary of the Treaty.

2. The Depositary shall:

   (a) Receive instruments of ratification;

   (b) Register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations;

   (c) Transmit certified copies of the Treaty and its Protocols to all States in the African nuclear-weapon-free zone and to all States eligible to become party to the Protocols to the Treaty, and shall notify them of signatures and ratification of the Treaty and its Protocols.

Article 22

Status of the annexes

The annexes form an integral part of this Treaty. Any reference to this Treaty includes the annexes.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Treaty.

Done at _____

ANNEX I

Annex 1 - Map of an African Nuclear-Weapon-Free Zone



ANNEX II

Safeguards of the International Atomic Energy Agency

1. The safeguards referred to in subparagraph (b) of the article 9 shall in respect of each Party be applied by the International Atomic Energy Agency as set forth in an agreement negotiated and concluded with the Agency on all agreement negotiated and concluded with the Agency on all source or special fissionable material in all nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.

2. The Agreement referred to in paragraph 1 above shall be, or shall be equivalent in its scope and effect to, the agreement required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 corrected). A party that has already entered into a safeguards agreement with the IAEA is deemed to have already complied with the requirement. Each Party shall take all appropriate steps to ensure that the Agreement referred to in paragraph 1 is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.

3. For the purpose of this Treaty, the safeguards referred to in paragraph 1 above shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices or for purposes unknown.

4. Each Party shall include in its annual report to the Commission, in conformity with art. 13, for its information and review, a copy of the overall conclusions of the most recent report by the International Atomic Energy Agency on its inspection activities in the territory of the Party concerned, and advise the Commission promptly of any change in those conclusions. The information furnished by a Party shall not be, totally or partially, disclosed or transmitted to third parties, by the addressees of the reports, except when that Party gives its express consent.

ANNEX III

African Commission on Nuclear Energy

1. The Commission established in article 12 shall be composed of twelve Members elected by Parties to the Treaty for a three-year period, bearing in mind the need for equitable geographical distribution as well as to include Members with advanced nuclear programmes. Each Member shall have one representative nominated with particular regard for his/her expertise in the subject of the Treaty.

2. The Commission shall have a Bureau consisting of the Chairman, the Vice-Chairman and the Executive Secretary. It shall elect its Chairman and Vice-Chairman. The Secretary-General of the Organization of African Unity, at the request of Parties to the Treaty and in consultation with the Chairman, shall designate the Executive Secretary of the Commission. For the first meeting a quorum shall be constituted by representatives of two thirds of the Members of the Commission. For that meeting decisions of the Commission shall be taken as far as possible by consensus or otherwise by a two-thirds majority of the Members of the Commission. The Commission shall adopt its rules of procedure at that meeting.

3. The Commission shall develop a format for reporting by States as required under articles 12 and 13.

4. (a) The budget of the Commission, including the costs of inspections pursuant to annex IV to this Treaty, shall be borne by the Parties to the Treaty in accordance with a scale of assessment to be determined by the Parties;

   (b) The Commission may also accept additional funds from other sources provided such donations are consistent with the purposes and objectives of the Treaty;

ANNEX IV

Complaints procedure and Settlement of disputes

1. A Party which considers that there are grounds for a complaint that another Party or a Party to Protocol III is in breach of its obligations under this Treaty shall bring the subject-matter of the complaint to the attention of the Party complained of and shall allow the latter thirty days to provide it with an explanation and to resolve the matter. This may include technical visits agreed upon between the Parties.

2. If the matter is not so resolved, the complainant Party may bring this complaint to the Commission.

3. The Commission, taking account of efforts made under paragraph I above, shall afford the Party complained of forty-five days to provide it with an explanation of the matter.

4. If, after considering any explanation given to it by the representatives of the Party complained of, the commission considers that there is sufficient substance in the complaint to warrant an inspection in the territory of that Party or territory of a party to Protocol III, the Commission may request the International Atomic Energy Agency to conduct such inspection as soon as possible. The Commission may also designate its representatives to accompany the Agency's inspection team.

   (a) The request shall indicate the tasks and objectives of such inspection, as well as any confidentiality requirements;

   (b) If the Party complained of so requests, the inspection team shall be accompanied by representatives of that Party provided that the inspectors shall not be thereby delayed or otherwise impeded in the exercise of their functions;

   (c) Each Party shall give the inspection team full and free access to all information and places within each territory that may be deemed relevant by the inspectors to the implementation of the inspection;

   (d) The Party complained of shall take all appropriate steps to facilitate the work of the inspection team, and shall accord them the same privileges and immunities as those set forth in the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency;

   (e) The International Atomic Energy Agency shall report its findings in writing as quickly as possible to the Commission, outlining its activities, setting out relevant facts and information as ascertained by it, with supporting evidence and documentation as appropriate, and stating its conclusions. The Commission shall report fully to all States Parties to the Treaty giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty;

   (f) If the Commission considers that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, States Parties to the Treaty shall meet in extraordinary session to discuss the matter;

   (g) The States Parties convened in extraordinary session may as necessary, make recommendations to the Party held to be in breach of its obligations and to the Organization of African Unity. The Organization of African Unity may, if necessary, refer the matter to the United Nations Security Council;

   (h) The costs involved in the procedure outlined above shall be borne by the Commission. In the case of abuse, the Commission shall decide whether the requesting State Party should bear any of the financial implications.

5. The Commission may also establish its own inspection mechanisms.

PROTOCOL I

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11(1)) of 1964, resolutions CM/Res.1342 (LIV) of 1991 and CM/Res.1395 (LVI) Rev. 1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly Resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Have agreed as follows:

Article 1

Each Protocol Party undertakes not to use or threaten to use a nuclear explosive device against:

(a) Any Party to the Treaty; or

(b) Any territory within the African nuclear-weapon-free zone for which a State that has become a Party to Protocol III is internationally responsible as defined in annex I.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 20 of the Treaty.

Article 4

This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at _____

PROTOCOL II

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11(1)) of 1964, resolutions CM/Res.1342 (LIV) of 1991 and CM/Res.1395 (LVI)/Rev. 1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Bearing in mind the objective of concluding a treaty banning all nuclear tests,

Have agreed as follows:

Article 1

Each Protocol Party undertakes not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African nuclear-weapon-free zone.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 20 of the Treaty.

Article 4

This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at _____

PROTOCOL III

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty,. negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res 11(1)) of 1964, resolutions (CM Res.1342 (LIV) of 1991 and CM Res.1395 (LVI)/Rev.1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Have agreed as follows:

Article 1

Each Protocol Party undertakes to apply, in respect of the territories for which it is de jure or de facto internationally responsible situated within the African nuclear-weapon-free zone, the provisions contained in articles 3, 4, 5, 6, 7, 8, 9 and 10 of the Treaty and to ensure the application of safeguards specified in annex II of the Treaty.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alterations to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 20 of the Treaty.

Article 4

This Protocol shall be open for signature by France and Spain.

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely provided that each Party shall, in exercising its national sovereignty have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at _____

B. Characteristics of Substances in the Environment

For the preparation of action plans, programmes and measures, the Parties should take into account the characteristics listed below:

1. Persistence;
2. Toxicity or other noxious properties (e.g. carcinogenicity, mutagenicity, teratogenicity);
3. Bioaccumulation;
4. Radioactivity;
5. The ratio between observed concentrations and no observed effect concentrations (NOEC);
6. The risk of eutrophication of anthropogenic origin;
7. Health effects and risks;
8. Transboundary significance;
9. The risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;
10. Interference with the sustainable exploitation of living resources or with other legitimate uses of the sea;
11. Effects on the taste and/or smell of marine products for human consumption;
12. Effects on the smell, colour, transparency or other characteristics of seawater;
13. Distribution pattern (i.e. quantities involved, use patterns and probability of reaching the marine environment).

C. Categories of Substances

The following categories of substances and sources of pollution will serve as guidance in the preparation of action plans, programmes and measures:

1. Organohalogen compounds and substances which may form such compounds in the marine environment. Priority will be given to Aldrin, Chlordane, DDT, Dieldrin, Dioxins and Furans, Endrin, Heptachlor, Hexachlorobenzene, Mirex, PCBs and Toxaphene;
2. Organophosphorus compounds and substances which may form such compounds in the marine environment;
3. Organotin compounds and substances which may form such compounds in the marine environment;
4. Polycyclic aromatic hydrocarbons;
5. Heavy metals and their compounds;
6. Used lubricating oils;
7. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment;

8. Biocides and their derivatives;

9. Pathogenic microorganisms;

10. Crude oils and hydrocarbons of petroleum origin;

11. Cyanides and fluorides;

12. Non-biodegradable detergents and other non-biodegradable surface-active substances;

13. Compounds of nitrogen and phosphorus and other substances which may cause eutrophication;

14. Litter (any persistent manufactured or processes solid material which is discarded, disposed of, or abandoned in the marine and coastal environment);

15. Thermal discharges;

16. Acid or alkaline compounds which may impair the quality of water;

17. Non-toxic substances that have an adverse effect on the oxygen content of the marine environment;

18. Non-toxic substances that may interfere with any legitimate use of the sea;

19. Non-toxic substances that may have adverse effects on the physical or chemical characteristics of seawater;

Annex II

Annex II is deleted.

Annex III

Annex III is re-numbered as Annex II. A title is added and the introductory paragraph is amended as follows:

Annex II

ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE ISSUE OF THE AUTHORIZATIONS FOR DISCHARGES OF WASTES

With a view to the issue of an authorization for the discharges of wastes containing substances referred to in article 6 to this Protocol, particular account will be taken, as the case may be, of the following factors:

The title and paragraphs 1, 2, 3, 6 and 7 of section A are amended as follows:

A. **CHARACTERISTICS AND COMPOSITION OF THE DISCHARGES**

1. Type and size of point or diffuse source (e.g. industrial process).

2. Type of discharges (e.g. origin, average composition).

3. State of waste (e.g. solid, liquid, sludge, slurry).

6. Concentrations with respect to relevant constituents of substances listed in annex I and of other substances as appropriate.

7. Physical, chemical and biochemical properties of the waste discharges.

The title of section B is amended and a new paragraph is added.

B. **CHARACTERISTICS OF DISCHARGE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS**

7. All other characteristics as listed in annex I, section B.

The title and paragraph 3 of section C are amended as follows:

C. **CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING ENVIRONMENT**

3. Initial dilution achieved at the point of discharge into the receiving environment.

Annex IV

Annex IV is re-numbered as Annex III. A title is added and paragraphs 1, 2, 3, and 5 are amended as follows:

Annex III

CONDITIONS OF APPLICATION TO POLLUTION TRANSPORTED THROUGH THE ATMOSPHERE

1. This Protocol shall apply to polluting discharges into the atmosphere under the following conditions:

   (a) the discharged substance is or could be transported to the Mediterranean Sea Area under prevailing conditions;

   (b) the input of the substance into the Mediterranean Sea Area is hazardous for the environment in relation to the quantities of the same substance reaching the Area by other means.

2. This Protocol shall also apply to polluting discharges into the atmosphere affecting the Mediterranean Sea Area from land-based sources within the territories of the Parties and from fixed man-made offshore structures, subject to the provisions of article 4.2 of this Protocol.

3. In the case of pollution of the Mediterranean Sea Area from land-based sources through the atmosphere, the provisions of articles 5 and 6 of this Protocol shall apply progressively to appropriate substances and sources listed in annex I to this Protocol as will be agreed by the Parties.

5. The provisions of annex II to this Protocol shall apply to pollution through the atmosphere whenever appropriate. Air pollution monitoring and modelling using acceptable common emission factors and methodologies shall be carried out in the assessment of atmospheric deposition of substances, as well as in th compilation of inventories of quantities and rates of pollutant emissions into the atmosphere from land-based sources.

Annex IV

A new Annex IV is added as follows:

Annex IV

CRITERIA FOR THE DEFINITION OF BEST AVAILABLE TECHNIQUES
AND BEST ENVIRONMENTAL PRACTICE

A. BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:

   (a) comparable processes, facilities or methods of operation which have recently been successfully tried out;

   (b) technological advances and changes in scientific knowledge and understanding;

   (c) the economic feasibility of such techniques;

   (d) time limits for installation in both new and existing plants;

   (e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures will have to be applied.

5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

A. BEST ENVIRONMENTAL PRACTICE

6. The term "best environmental practice" means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

   (a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;

   (b) the development and application of codes of good environmental practice which cover all aspects of the activity in the product's life;

   (c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;

(d) saving resources, including energy;

(e) making collection and disposal systems available to the public;

(f) avoiding the use of hazardous substances or products and the generation of hazardous waste;

(g) recycling, recovery and re-use;

(h) the application of economic instruments to activities, products or groups of products;

(i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

(a) the environmental hazard of the product and its production, use and ultimate disposal;

(b) the substitution by less polluting activities or substances;

(c) the scale of use;

(d) the potential environmental benefit or penalty of substitute materials or activities;

(e) advances and changes in scientific knowledge and understanding;

(f) time limits for implementation;

(g) social and economic implications;

8. It therefore follows that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

Memorandum of Understanding on Port State Control in the Caribbean Region, Christchurch (Barbados), 1996

Done at Christchurch 9 February 1996

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The Maritime Authorities of

Anguilla
Antigua and Barbuda
Aruba
Bahamas
Barbados
Bermuda
British Virgin Islands
Cayman Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
Netherlands Antilles
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Turks and Caicos Islands

hereinafter referred to as 'the Authorities'

Conscious of the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources;

Recalling the importance of the requirements set out in the relevant maritime conventions for ensuring maritime safety and marine environment protection;

Recalling the importance of improving living and working conditions at sea;

Noting the standards established by the International Maritime Organization (IMO) and the International Labour Organization (ILO), and mindful especially of IMO Resolution A.682(17) adopted at its 17th Assembly, concerning regional co-operation in the control of ships and discharges;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity for these purposes, of an improved and harmonized system of port state control and of strengthening cooperation and the exchange of information;

have reached the following understanding:

Section 1 Commitments

1.1 Each Authority that has accepted the Memorandum will give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum, and take all necessary steps to ratify instruments relevant for the purposes of this Memorandum.

1.2 Each Authority will establish and maintain an effective system of port state control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2, mindful of the provisions of section 2.3.

1.3 Each Authority will endeavour to achieve, within a period of 3 years from the coming into effect of the Memorandum, an annual total of inspections corresponding to 15% of the estimated number of individual foreign merchant ships, hereinafter referred to as 'ships', which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to Section 6.1 will monitor the overall inspection activity and its effectiveness throughout the region.

1.4 Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant instruments

2.1 For the purposes of the Memorandum 'relevant instruments' are the following instruments:

- the International Convention on Load Lines, 1966;
- the International Convention for the Safety of Life at Sea, 1974 (SOLAS74);
- the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL73/78);
- the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW78);
- the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147).

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147), each Authority will apply the instructions in Annex 1A for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.

2.4 In applying a relevant instrument for the purposes of port state control, the Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a State which is not a

Party to that instrument.

2.5 In the case of ships below 500 tons gross tonnage and ships of traditional build the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard in particular to Annex 1B.

Section 3 Inspection procedures, rectification and detention

3.1 In implementing this Memorandum the Authorities will carry out inspections, which will consist of a visit on board a ship in order to check the certificates and documents in respect of those instruments relevant for the purposes of the Memorandum. In the absence of valid certificates or documents or if there are clear grounds for believing that the condition of a ship or of its equipment, or its crew does not substantially meet the requirements of a relevant instrument, a more detailed inspection will be carried out. It is necessary that Authorities, in their control procedures, include control on compliance with on board operational requirements. Inspections will be carried out in accordance with the guidelines specified in Annexes 1A and 1B.

3.2.1 The Authorities will regard as 'clear grounds' inter alia the following:

- a report or notification by another Authority;
- a report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded;
- other indications of serious deficiencies, having regard in particular to Annexes 1A and 1B.

3.2.2 For the purpose of control on compliance with on board operational requirements, specific "clear grounds" are the following:

- evidence of operational shortcomings revealed during port State control procedures in accordance with SOLAS74, MARPOL73/78 and STCW78, as amended;
- evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines;
- involvement of the ship in incidents due to failure to comply with operational requirements;
- evidence, from the witnessing of a fire and abandon ship drill, that the crew are not familiar with essential procedures;
- absence of an up-to-date muster list;
- indications that key crew members may not be able to communicate with each other or with other persons on board.

3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

3.3 In selecting ships for inspection, the Authorities will pay special attention to:

1 passenger ships, roll-on/roll-off ships, bulk carriers, ships of traditional build and ships below 500 tons gross tonnage;
2 ships which may present a special hazard, for instance oil tankers, gas carriers, chemical tankers and ships carrying harmful substances in packaged form;
3 ships flying the flag of a State appearing in the three-year rolling average table of above average detentions in the annual report of the Memorandum;
4 ships which have had several recent deficiencies.

3.4 The Authorities will seek to avoid inspecting ships which have been inspected by any of the other Authorities within the previous six months, unless they have clear grounds for inspection. The frequency of inspection does not apply to the ships referred to in section 3.3 in which case the Authorities will seek satisfaction whenever they will deem this appropriate.

3.5 Inspections will be carried out by properly qualified persons authorized for that purpose by the Authority concerned and acting under its responsibility.

3.6 Each Authority will endeavour to secure the rectification of deficiencies detected.

3.7 In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea and for this purpose will take appropriate action, which may include detention. The Authority will, as soon as possible, notify the flag State through its consul or, in his absence, its nearest diplomatic representative or its maritime authority of the action taken. Where the certifying authority is an organization other than a maritime administration, the former will also be advised.

3.8 Where deficiencies referred to in 3.7 cannot be remedied in the port of inspection, the Authority may allow the ship to proceed to another port, subject to any appropriate conditions determined by that Authority with a view to ensuring that the ship can so proceed without unreasonable danger to safety, health or the environment. In such circumstances the Authority will notify the competent Authority of the ship's next port of call, and the parties mentioned in 3.7 and any other authority as appropriate. Notification to Authorities will be made in accordance with Annex 2. The Authority receiving such notification will inform the notifying Authority of action taken.

3.9 The provisions of section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port state control.

3.10 The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a document in the form specified in Annex 3, giving the results of the inspection and details of any action taken.

3.11 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

Section 4 Provision of information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 4.

4.2 Arrangements will be made for the exchange of inspection information with other regional organizations working under a similar memorandum of understanding.

4.3 The Authorities will, upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant.

Section 5 Training programs and seminars

The Authorities will endeavour to establish training programs and seminars for surveyors.

Section 6 Organization

6.1 A Committee composed of a representative of each of the Authorities that has accepted the Memorandum will be established. An observer from each of the International Maritime Organization, the International Labour Organization and the Caribbean Community Secretariat will be invited to

participate without vote in the work of the Committee. Subject to the provisions of Section 8.4, any other organization or authority, which the Committee may deem appropriate, may be accorded the status of observer without a vote.

6.2 The Committee will meet once a year and at such other times as it may decide.

6.3 The Committee will:

- carry out the specific tasks assigned to it under the Memorandum;
- promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
- develop and review guidelines for carrying out inspections under the Memorandum;
- develop and review procedures, including those related to the exchange of information;
- keep under review other matters relating to the operation and the effectiveness of the Memorandum.

6.4 A Secretariat will be established and operate in accordance with the following principles:

- the Secretariat is a non-profit making body located in Barbados;
- the Secretariat will act independently from any maritime administration or organization;
- the Secretariat will be governed by and be accountable to the Committee;
- the Secretariat will have a bank account into which all dues and contributions are made;
- the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.

6.5 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:

- prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- facilitate the exchange of information, carry out the procedures outlined in Annex 4 and prepare reports as may be necessary for the purposes of the Memorandum;
- carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 7 Amendments

7.1 Any Authority that has accepted the Memorandum may propose amendments to the Memorandum.

7.2 In the case of proposed amendments to the Memorandum the following procedure will apply:

a the proposed amendment will be submitted through the Secretariat for consideration by the Committee;

b amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee, each Authority exercising one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance;

c an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority;

d any such objection will be considered by the Committee at its next meeting, and the amendment will be confirmed if it is accepted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee at such meeting. In these circumstances, a quorum of more than half of the total number of representatives of the Authorities that comprise the Committee is required. In the event that the amendment is confirmed, the date of its

deemed acceptance will be either at the end of a period of six months after being confirmed or any different period determined unanimously by the representatives of the Authorities in the Committee at the time of confirmation;

e an amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

7.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply:

a the proposed amendment will be submitted through the Secretariat for consideration by the Authorities;

b the amendment will be deemed to have been accepted at the end of a period of six months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 7.2 will apply;

c the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.

Section 8 Administrative provisions

8.1 The Memorandum is without prejudice to rights and obligations under any International Agreement or under any domestic legislation.

8.2 Any Maritime Authority may, with the unanimous consent of the Authorities present and voting at the Committee meeting, adhere to the Memorandum. For such an Authority the Memorandum will take effect upon such date as may be mutually agreed.

8.3 When the Memorandum takes effect, it will supersede existing bilateral or multilateral agreements on port State control between Maritime Authorities in the Caribbean Region.

8.4 Any Maritime Authority or organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.

8.5 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

8.6 The Memorandum is signed at Christchurch, Barbados, on the ninth day of February 1996 and will remain open for signature until the eighth day of August 1996.

8.7 The Memorandum will be available for acceptance from the ninth day of August 1996 and will take effect for each Authority, which has signed the Memorandum, on the date its acceptance is duly notified to the Secretariat.

8.8 The English text is the official version of the Memorandum.

MARITIME AUTHORITIES SIGNING THE CARIBBEAN MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL (CARIBBEAN MOU)

This Memorandum is signed at Christchurch (Barbados) this ninth day of February, one thousand nine hundred and ninety-six, by the following Authorities:

Antigua and Barbuda

[Signature]

Mr. Keith Hearst,
Financial Secretary,
Ministry of Finance.

Barbados

[Signature]

Mrs. Valerie C. Browne,
Director of Maritime Affairs,
International Transport Division,
Ministry of Foreign Affairs, Tourism and International Transport.

Dominica

[Signature]

Mr. Milton Green,
Office Manager,
Dominica Port Authority.

Grenada

[Signature]

Mr. Ian Evans,
Port Manager,
Grenada Port Authority.

Guyana

[Signature]

Mr. Ivor B. English,
General Manager,
Transport and Harbours Department,
Ministry of Public Works and Communications.

Jamaica

[Signature]

Ms. Ruby McCreath,
Senior Director,
Marine Services,
Ministry of Public Utilities and Transport.

Netherlands Antilles

[Signature]

Captain Richard E. Britt,
Assistant Director,
Shipping Inspection.

Suriname

[Signature]

Mr. Eddie Fitz-Jim,
Director Maritime Affairs,
Ministry of Transport. Communications and Tourism.

Trinidad and Tobago

[Signature]

Lt. Cdr. Curtis A. Roach,
Director of Maritime Services,
Maritime Services Division,
Ministry of Works and Transport.

[Signature]

Mrs. Valerie C. Browne,
Chairman,

Director of Maritime Affairs,
Int. Transport Division,
Ministry of Foreign Affairs
Tourism and
International Transport,
Barbados.

[Signature]

Lt.Cdr. Curtis A. Roach,
Vice-Chairman,

Director of Maritime Services,
Maritime Services Division,
Ministry of Works
and Transport,
Trinidad and Tobago.

[Signature]

Ms. Ruby McCreath,
Secretary/Rapporteur,

Senior Director,
Marine Services,
Ministry of Public Utilities
and Transport,
Jamaica.

SIGNED AS WITNESS TO THE ABOVE SIGNATURES:

[Signature]

Mr. J. Williams,
Deputy Director of ILO Caribbean Office,
International Labour Organization.

[Signature]

Ms. Claudia Gordon,
CARICOM Secretariat.

[Signature]

Mr. Richard Day,
Tokyo Memorandum of Understanding on Port State Control.

[Signature]

Mr. Fernando Plaza,
Senior Deputy Director,
International Maritime Organization.

[Signature]

Mr. Henk E. Huibers,
Paris Memorandum of Understanding on Port State Control.

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF INTERNATIONAL SHIPPING

Contents

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Section 2	**The safety of the ship as related to SOLAS 74/78, LOADLINES 66, COLREGS 72 and MARPOL 73/78.**
2.1	More detailed inspection.
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3.2	Manning control.
3.3	Certification control.
3.4	Detention
Section 4	**Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).**

Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in section 3.1 of the Memorandum refer to the relevant provisions of the following:

- Procedures for Port State Control (IMO Resolution A. 78 7(19));
- Principles of Safe Manning (IMO Resolution A.481 (XII)) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2);
- The provisions of the International Maritime Dangerous Goods Code;
- ILO publication "Inspection of Labour Conditions on board Ship: Guide-lines for procedure";
- The procedures laid down in this Annex to the Memorandum.

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the surveyor shall take into consideration the results of the detailed inspection carried out in accordance with section 3.

The surveyor shall exercise his professional judgement in determining whether to detain the ship until the deficiencies are corrected or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health, or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of ILO Convention No. 147, special procedures shall be observed set out in sections 3 and 4 of this Annex.

1.3 Application of the clause of 'no more favourable treatment'

In applying Section 2.4 the following shall be observed.

Ships entitled to fly the flag of a State which is not a party to a relevant instrument listed in Section 2 and thus not provided with certificates representing prima facie evidence of satisfactory conditions on board, shall receive a detailed inspection. In making such an inspection the surveyor should follow the same guidelines as provided for ships to which the relevant instruments are applicable.

The conditions of and on such a ship and its equipment and the certification of the crew, its number and composition shall be compatible with the aims of the provisions of a relevant instrument; otherwise the ship shall be subject to such restrictions as are necessary to obtain a comparable level of safety.

Section 2 The safety of the ships as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78.

2.1 More detailed inspection

In so far as there are clear grounds for a more detailed inspection relating to the provisions of the SOLAS Convention, the Protocol thereto, the Load Lines Convention, the Convention on Collision Regulations and MARPOL 73/78 the surveyor when carrying out this inspection shall take into account the considerations given in the 'Procedures for Port State Control' (IMO Res. A.787(19)), the provisions of the International Maritime Dangerous Goods Code and the provisions of section 4 with regard to living and working conditions on board ships.

Section 3 Minimum manning standards and certification

3.1 Introduction

The guiding principle for port state inspection of the manning of a foreign ship should be to establish conformity with the flag State's safe manning requirements. Where this is in doubt the flag State should be consulted. Such safe manning requirements stem from:

- the International Convention for the Safety of Life at Sea (SOLAS) 1974.
- the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention 147) which inter alia refers to the ILO Convention No. 53 Article 3 and 4.
- the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended.
- the Contents of Minimum Safe Manning Document (IMO Resolution A-48 1(XII), Annex 1).
- the Guidelines for the Application of Principles of Safe Manning (IMO Resolution A.481 (XII), Annex 2).

Detention as port State action shall only be taken on the grounds laid down in the relevant instruments and used in conjunction with advice from the flag State. Where such response is not readily forthcoming, and the extent of the manning deficiency is such as to render the ship clearly unsafe for the intended voyage or service, detention may be the only resort.

3.2 Manning control

3.2.1 If a ship is manned in accordance with a safe manning document or equivalent document issued by the flag State, the surveyor should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and in the IMO Guidelines for the Application of Principles of Safe Manning. In this last case, the surveyor should act according to the procedures defined in paragraph 3.2.3.

3.2.2 If the actual crew number or composition does not conform to the manning document, the port State should request the flag State for advice whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible. The reply if any, from the flag State should be confirmed by telex. If the actual crew number and composition is not brought into accordance with the safe manning document or the flag State does not advise that the ship could sail, the ship may be considered for detention after the criteria set out in paragraph 3.4 of this Annex have been taken into proper account.

3.2.3 If the ship does not carry a safe manning document or equivalent, the port State should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible.

In case the actual number or composition of the crew does not conform to the specifications received form the flag State, the procedure as contained in paragraph 3.2.2 applies.

If the flag State does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1. The ship shall only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4. In any such case the minimum standards to be applied shall be no more stringent than those applied to ships flying the flag of the port State. The lack of a safe manning document shall be reported as a deficiency.

3.3 Certification control

3.3.1 General certification control upon ships should be carried out in accordance with the procedures stipulated in Article X and in Regulation I/4 of the STCW Convention.

3.3.2 Certification control upon ships engaged in the carriage of liquid hazardous cargo in bulk should be more stringent. The surveyor should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having had the appropriate training and experience.

No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified. With regard to appropriate training, reference is made to Chapter V of the STCW Convention, to Resolutions 10, 11 and 12 adopted by the International Conference on Training and Certification of Seafarers 1978 and to the relevant sections of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

- length and nature of the intended voyage or service.
- whether or not the deficiency poses a danger to ship, persons on board or the environment.
- whether or not appropriate rest periods of the crew can be observed.
- size and type of ship and equipment provided.
- nature of cargo.

The absence of a Deck or Engineer Officer required to be certificated should not be grounds for detention where the absence is in accordance with any exceptional provisions approved by the flag State.

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

4.1 Inspections on board ships under the Merchant Shipping (Minimum Standards) Convention. 1976 (ILO Convention No. 147) shall relate to:

a the Minimum Age Convention, 1973 (No. 138); or the Minimum Age (Sea) Convention (Revised), 1936 (No. 58): or the Minimum Age (Sea) Convention, 1920 (No. 7);

b the Medical Examination (Seafarers) Convention, 1946 (No. 73);

c the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);

d the Accommodation of Crews Convention (Revised), 1949 (No. 92);

e the Food and Catering (Ships 'Crews) Convention, 1946 (No. 68) (Article 5);

f the Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in section 3 of this Annex. In the exercise of control functions the surveyor, in the light of his general impression of the ship, will have to use his professional judgement to decide whether the ship shall receive a more detailed inspection. All complaints regarding conditions on board should be investigated thoroughly and action taken as deemed necessary by the circumstances. He shall also use his professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions, and may if necessary detain the ship until appropriate corrective action is taken.

4.2 In so far as there are clear grounds for a more detailed inspection relating to the provisions of ILO Convention No. 147, the surveyor when carrying out an inspection shall take into account the previous paragraph in this section and the considerations given in the ILO publication "Inspection of Labour Conditions on board Ship: Guide-lines for procedure".

4.3 The conventions relevant in the framework of the provisions of paragraph 4.4 are:

a the Seamen's Articles of Agreement Convention, 1926 (no. 22);

b the Repatriation of Seamen Convention, 1926 (no. 23);

c the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (no.55); or the Sickness Insurance (Sea) Convention, 1936 (no. 56): or the Medical Care and Sickness Benefits Convention, 1969 (no. 130);

d the Freedom of Association and Protection of the Right to Organise Convention, 1948 (no. 87);

e the Right to Organise and Collective Bargaining Convention, 1949 (no. 98).

4.4 If the surveyor receives a complaint to the effect that the standards laid down in the conventions listed in paragraph 4.3 are not met, the matter should be reported to the nearest maritime, consular or diplomatic representation of the flag State for further action. If deemed necessary, the appropriate authority may prepare a report to the flag State, if possible with evidence, with a copy to the ILO.

4.5 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship: Guide-lines for procedure" which deal with:

- control procedures for national flag ships;
- vocational training;
- officers' certificates of competency;
- hours of work and manning;

should not be considered as relevant provisions for the inspection of ships but as information to surveyors only.

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF CARIBBEAN CARGO SHIPS BELOW 500 TONS GROSS TONNAGE AND SHIPS OF TRADITIONAL BUILD

Section 1 Caribbean cargo ships below 500 tons gross tonnage.

1.1 **The following is a guide for the application of Section 2.5 in respect of Caribbean cargo ships below 500 tons gross tonnage.**

1.2 To the extent a relevant instrument is not applicable to a ship below 500 tons gross tonnage, the surveyor shall be guided by the provisions of the "Caribbean Cargo Ship Safety Regulations".

Section 2 Ships of traditional build.

2. 1 **The following is a guide for the application of Section 2.5 in respect of ships of traditional build.**

2.2 To the extent a relevant instrument is not applicable to a ship of traditional build, the surveyor's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment the surveyor shall take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

2.3 In the exercise of his functions under paragraph 2.2 the surveyor should be guided by any certificates and other documents issued by the flag State. The surveyor will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgement in deciding whether and in what respects the ship shall receive a more detailed inspection, taking into account the factors mentioned in paragraph 2.2. When carrying out a more detailed inspection the surveyor shall, to the extent he deems necessary, pay attention to the items listed in paragraph 2.4. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

2.4 **Items of general importance**

2.4.1 Items related to the conditions of assignment of load lines:

- weathertight (or watertight as the case may be) integrity of exposed decks;
- hatches and closing appliances;
- weathertight closures to openings in superstructures;
- freeing arrangements;
- side outlets;
- ventilators and air pipes;
- stability information.

2.4.2 Other items related to the safety of life at sea:

- life saving appliances;
- fire fighting appliances;
- general structural conditions (i.e. hull, deck, hatch covers, etc.);
- main machinery and electrical installations;
- navigational equipment including radio installations.

2.4.3 Items related to the prevention of pollution from ships:

- means for the control of discharge of oil and oily mixtures e.g. oily water separating or filtering equipment or other equivalent means (tank(s) for retaining oil, oily mixtures, oil residues);
- means for the disposal of oil, oily mixtures or oil residues;
- presence of oil in the engine room bilges.

2.5 In the case of deficiencies which are considered hazardous to safety, health or the environment the surveyor shall take such action, which may include detention as may be necessary, having regard to the factors mentioned in paragraph 2.2, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

EXCHANGE OF MESSAGES BY REGION STATES IN ACCORDANCE WITH SECTION 3.8 OF THE MEMORANDUM

1 In the case of deficiencies not fully rectified or only provisionally repaired, a message shall be sent to the competent Authority of the region State where the next port of call of the ship is situated.

2 The exchange of messages, as in paragraph 1 above, shall take effect through the use of the communication facilities incorporated in the information system as described in Annex 4 and/or by facsimile on the form contained in the Appendix to this Annex.

3 Each message as in paragraph 1 above, shall contain the following information:

- date;
- from (country);
- port;
- to (country);
- port;
- a statement reading: deficiencies to be rectified;
- name of ship;
- IMO identification number (if available);
- type of ship;
- flag of ship;
- call sign;
- gross tonnage;
- year of build;
- issuing authority of relevant certificate(s);
- date of departure;
- estimated place and time of arrival;
- nature of deficiencies;
- action taken;
- suggested action;
- suggested action at next port of call;
- name and facsimile number of sender.

REPORT OF DEFICIENCIES NOT FULLY RECTIFIED OR ONLY PROVISIONALLY REPAIRED

in accordance with Annex 2 to the Memorandum of Understanding on Port State Control in the Caribbean Region

(Copy to maritime authority of next port of call, flag Administration or other certifying authority, as appropriate, as required by Section 3.8 of the Memorandum and to the Port State Control Secretariat)

1 From (country): _____ 2. Port: _____

3. To (country): _____ 4. Port: _____

5. Name of ship: _____ 6. Date departed: _____

7. Estimated place and time of arrival: _____

8. IMO number: _____ 9. Flag of ship: _____

10. Type of ship: _____ 11. Call sign: _____

12. Gross tonnage: _____ 13. Year of build: _____

14. Issuing authority of relevant certificate(s): _____

15. Nature of deficiencies to be rectified:

16. Suggested action:
(including action at next port of call)

17. Action taken:

Reporting Authority: _____ Office: _____

Name: _____ Facsimile: _____
duly authorized surveyor of (reporting authority)

Signature: _____ Date: _____

REPORT OF INSPECTION IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE CARIBBEAN REGION[1)]

(issuing authority)
(address)
(telephone)
(telefax)
(telegram)
(telex)

Copy head office
(surveyors copy)
(master's copy)
(IMO copy)

1 name of issuing authority _____

2 name of ship _____ 3 flag of ship _____

4 type of ship _____

5 call sign _____ 6 IMO number _____

7 gross tonnage _____ 8 year of build _____

9 date of inspection _____ 10 place of inspection _____

11 relevant Certificate(s) _____

a title	b issuing authority	c dates of issue and expiry
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

d the information below concerning the last intermediate survey shall be provided if the next survey is due or overdue

date	surveying authority	place
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

12 deficiencies ❑ no ❑ yes (see attached FORM B) ❑ SOLAS ❑ MARPOL
13 ship detained ❑ no ❑ yes
14 supporting documentation ❑ no ❑ yes (see annex)

district office _____ name _____
duly authorized surveyor of (issuing authority)

telephone _____

telefax/telex/telegram _____ signature _____

[1)]Maritime Authorities in the Caribbean region have concluded a Memorandum of Understanding harmonizing the procedures On Port State Control. This Port State Control is based upon the international conventions on safety, the protection of the environment and living and working conditions on board ships as adopted by the International Maritime Organization and the International Labour Organisation. If this inspection report does not contain any remarks under the heading 'nature of deficiency' the above Maritime Authorities will seek to avoid inspecting the ship again for a period of six months after the date this report was issued, unless there are clear grounds for another inspection. This inspection report has been issued solely for the purpose of informing the master and other port States that an inspection by the port State, mentioned in the heading, has taken place. This inspection report cannot be construed as a seaworthiness certificate in excess of the certificates the ship is required to carry.

FORM B

REPORT OF INSPECTION IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE CARIBBEAN REGION

(issuing authority)
(address)
(telephone)
(telefax)
(telegram)
(telex)

Copy head office
(surveyors copy)
(master's copy)
(IMO copy)

1 name of issuing authority _____

2 name of ship _____ 5 call sign _____

9 date of inspection _____ 10 place of inspection _____

15 nature of deficiency	Convention references [2])	16 action taken [1])

name _____
duty authorized surveyor of (issuing authority)

signature _____

[1]) Codes for actions taken include i.a.: ship detained/released, flag State informed, classification society informed, next port informed (for codes see reverse side of copy).
[2]) To be completed in the event of a detention.

(reverse side of Form B)

codes for actions taken

codes

00	no action taken
10	deficiency rectified
12	all deficiencies rectified
15	rectify deficiency at next port
16	rectify deficiency within 14 days
17	master instructed to rectify deficiency before departure
20	ship delayed to rectify deficiencies
25	ship allowed to sail after delay
30	detainable deficiency
35	detention raised (+ specify date)
36	ship allowed to sail after re-detention
40	next port informed
45	next port informed to re-detain
50	flag state/consul informed
55	flag state consulted
60	region state informed
70	classification society informed
80	temporary substitution of equipment
85	investigation of contravention of discharge provisions (MARPOL)
99	other (specify in clear text)

INFORMATION SYSTEM ON INSPECTIONS

1 To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have at the disposal of Authorities up to date information on inspections of an individual foreign flag ship in one of the other regional ports within the preceding six months.

2 For that purpose the Authorities undertake to provide a Caribbean Maritime Information Centre (CMIC), preferably by means of computerized data transmission, with information on ships inspected in the national ports, basing themselves on the information set out in Annex 3 to the Memorandum. The insertion of information into the inspection files should preferably be realized by means of direct, computerized input on a daily basis.

3 For the purpose of exchanging rapid information, the information system shall embrace a communication facility which allows for a direct, computerized exchange of messages between individual Authorities, including the notifications as referred to in Section 3.8 of the Memorandum and the exchange of information on operational violations as referred to in Section 5 of the Memorandum.

4 The information as in paragraphs 2 and 3 above shall be handled in a standardized form and in accordance with standardized procedures as set out in the guide for users of the information system provided by the CMIC.

5 The CMIC will organize the processing of information as in paragraph 2 above so as to ensure that inspection data are easily accessible both for purposes of consultation and updating in accordance with procedures as set out in the guide for users of the information system provided by the CIVIC.

6 The facsimile facilities shall continue to be an alternative system of exchanging information, to which a standardized form applies as set out in the Appendix to this Annex.

7 Information for administrative purpose, such as statistical information, will be provided by the Secretariat under the guidance of the Committee. This will be based on data provided by the CMIC

8 The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum takes effect. Studies to monitor and, where necessary, to improve the quality of the system will be carried out on a continuous basis.

9 Whenever deficiencies are found which lead to the delay or detention of a ship, the port State Authority will send a copy of the report, as referred to in Annex 3 to the Memorandum, to the flag Administration concerned.

FACSIMILE FORM FOR SHIPS INSPECTED

Report of inspection

1	name of issuing country	
2	name of ship	
3	flag of ship	
4	type of ship	
5	call sign	
6	IMO number	
7	gross tonnage	
8	year of build	
9	date of inspection	(format: dd-mm-yy)
10	place of inspection	
11	relevant certificates [1])	
	a. title of certificate	
	b. issuing authority	
	c. date of issue and expiry	(format: dd-mm-yy/dd-mm-yy)
	d. last intermediate survey	(format: dd-mm-yy/authority/place)
12	deficiencies	(yes/no)
13	ship delayed/detained	(yes/no)
15	nature of deficiencies [2])	(format: def;def;def;)
16	actions taken [3])	

[1]) to be repeated for each relevant certificate.
[2]) including reference to the relevant Conventions if shown on the document left on board.
[3]) may alternatively be added to the particulars under 15 (nature of deficiencies) if the action taken has a direct relation to the corresponding deficiency. Deficiency and action(s) taken must be separated by a slant(/) (format: 15. def/at/at;def/at/at/at; 16. see 15).

Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, with Annexes, of 29 December 1972, London, 1996

Done at London 7 November 1996

Entered into force (not in force)

Depositary: International Maritime Organization of the United Nations, England

Primary source citation: Copy of text provided by the U.S. Department of State

THE CONTRACTING PARTIES TO THIS PROTOCOL,

STRESSING the need to protect the marine environment and to promote the sustainable use and conservation of marine resources,

NOTING in this regard the achievements within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and especially the evolution towards approaches based on precaution and prevention,

NOTING FURTHER the contribution in this regard by complementary regional and national instruments which aim to protect the marine environment and which take account of specific circumstances and needs of those regions and States,

REAFFIRMING the value of a global approach to these matters and in particular the importance of continuing co-operation and collaboration between Contracting Parties in implementing the Convention and the Protocol,

RECOGNIZING that it may be desirable to adopt, on a national or regional level, more stringent measures with respect to prevention and elimination of pollution of the marine environment from dumping at sea than are provided for in international conventions or other types of agreements with a global scope,

TAKING INTO ACCOUNT relevant international agreements and actions, especially the United Nations Convention on the Law of the Sea, 1982, the Rio Declaration on Environment and Development and Agenda 21,

RECOGNIZING ALSO the interests and capacities of developing States and in particular small island developing States,

BEING CONVINCED that further international action to prevent, reduce and where practicable eliminate pollution of the sea caused by dumping can and must be taken without delay to protect and preserve the marine environment and to manage human activities in such a manner that the marine ecosystem will continue to sustain the legitimate uses of the sea and will continue to meet the needs of present and future generations,

HAVE AGREED as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Protocol:

1 "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended.

2 "Organization" means the International Maritime Organization.

3 "Secretary-General" means the Secretary-General of the Organization.

4 .1 "Dumping" means:

.1 any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

.2 any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea;

.3 any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; and

.4 any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal.

.2 "Dumping" does not include:

.1 the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or other man-made structures;

.2 placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol; and

.3 notwithstanding paragraph 4.1.4, abandonment in the sea of matter (e.g., cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof.

.3 The disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources is not covered by the provisions of this Protocol.

5 .1 "Incineration at sea" means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal destruction.

.2 "Incineration at sea" does not include the incineration of wastes or other matter on board a vessel, platform, or other man-made structure at sea if such wastes or other matter were generated during the normal operation of that vessel, platform or other man-made structure at sea.

6 "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not.

7 "Sea" means all marine waters other than the internal waters of States, as well as the seabed and the subsoil thereof; it does not include sub-seabed repositories accessed only from land.

8 "Wastes or other matter" means material and substance of any kind, form or description.

9 "Permit" means permission granted in advance and in accordance with relevant measures adopted pursuant to article 4.1.2 or 8.2.

10 "Pollution" means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

ARTICLE 2

OBJECTIVES

Contracting Parties shall individually and collectively protect and preserve the marine environment from all sources of pollution and take effective measures, according to their scientific, technical and economic capabilities, to prevent, reduce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes or other matter. Where appropriate, they shall harmonize their policies in this regard.

ARTICLE 3

GENERAL OBLIGATIONS

1 In implementing this Protocol, Contracting Parties shall apply a precautionary approach to environmental protection from dumping of wastes or other matter whereby appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects.

2 Taking into account the approach that the polluter should, in principle, bear the cost of pollution, each Contracting Party shall endeavour to promote practices whereby those it has authorized to engage in dumping or incineration at sea bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.

3 In implementing the provisions of this Protocol, Contracting Parties shall act so as not to transfer, directly or indirectly, damage or likelihood of damage from one part of the environment to another or transform one type of pollution into another.

4 No provision of this Protocol shall be interpreted as preventing Contracting Parties from taking, individually or jointly, more stringent measures in accordance with international law with respect to the prevention, reduction and where practicable elimination of pollution.

ARTICLE 4

DUMPING OF WASTES OR OTHER MATTER

1 .1 Contracting Parties shall prohibit the dumping of any wastes or other matter with the exception of those listed in Annex 1.

.2 The dumping of wastes or other matter listed in Annex 1 shall require a permit. Contracting Parties shall adopt administrative or legislative measures to ensure that issuance of permits and permit conditions comply with provisions of Annex 2. Particular attention shall be paid to opportunities to avoid dumping in favour of environmentally preferable alternatives.

2 No provision of this Protocol shall be interpreted as preventing a Contracting Party from prohibiting, insofar as that Contracting Party is concerned, the dumping of wastes or other matter mentioned in Annex 1.

That Contracting Party shall notify the Organization of such measures.

ARTICLE 5

INCINERATION AT SEA

Contracting Parties shall prohibit incineration at sea of wastes or other matter.

ARTICLE 6

EXPORT OF WASTES OR OTHER MATTER

Contracting Parties shall not allow the export of wastes or other matter to other countries for dumping or incineration at sea.

ARTICLE 7

INTERNAL WATERS

1 Notwithstanding any other provision of this Protocol, this Protocol shall relate to internal waters only to the extent provided for in paragraphs 2 and 3.

2 Each Contracting Party shall at its discretion either apply the provisions of this Protocol or adopt other effective permitting and regulatory measures to control the deliberate disposal of wastes or other matter in marine internal waters where such disposal would be "dumping" or "incineration at sea" within the meaning of article 1, if conducted at sea.

3 Each Contracting Party should provide the Organization with information on legislation and institutional mechanisms regarding implementation, compliance and enforcement in marine internal waters. Contracting Parties should also use their best efforts to provide on a voluntary basis summary reports on the type and nature of the materials dumped in marine internal waters.

ARTICLE 8

EXCEPTIONS

1 The provisions of articles 4.1 and 5 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur. Such dumping or incineration at sea shall be conducted so as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organization.

2 A Contracting Party may issue a permit as an exception to articles 4.1 and 5, in emergencies posing an unacceptable threat to human health, safety, or the marine environment and admitting of no other feasible solution. Before doing so the Contracting Party shall consult any other country or countries that are likely to be affected and the Organization which, after consulting other Contracting Parties, and competent international organizations as appropriate, shall, in accordance with article 18.6 promptly recommend to the Contracting Party the most appropriate procedures to adopt. The Contracting Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken

and with the general obligation to avoid damage to the marine environment and shall inform the Organization of the action it takes. The Contracting Parties pledge themselves to assist one another in such situations.

3 Any Contracting Party may waive its rights under paragraph 2 at the time of, or subsequent to ratification of, or accession to this Protocol.

ARTICLE 9

ISSUANCE OF PERMITS AND REPORTING

1 Each Contracting Party shall designate an appropriate authority or authorities to:

.1 issue permits in accordance with this Protocol;

.2 keep records of the nature and quantities of all wastes or other matter for which dumping permits have been issued and where practicable the quantities actually dumped and the location, time and method of dumping; and

.3 monitor individually, or in collaboration with other Contracting Parties and competent international organizations, the condition of the sea for the purposes of this Protocol.

2 The appropriate authority or authorities of a Contracting Party shall issue permits in accordance with this Protocol in respect of wastes or other matter intended for dumping or, as provided for in article 8.2, incineration at sea:

.1 loaded in its territory; and

.2 loaded onto a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not a Contracting Party to this Protocol.

3 In issuing permits, the appropriate authority or authorities shall comply with the requirements of article 4, together with such additional criteria, measures and requirements as they may consider relevant.

4 Each Contracting Party, directly or through a secretariat established under a regional agreement, shall report to the Organization and where appropriate to other Contracting Parties:

.1 the information specified in paragraphs 1.2 and 1.3;

.2 the administrative and legislative measures taken to implement the provisions of this Protocol, including a summary of enforcement measures; and

.3 the effectiveness of the measures referred to in paragraph 4.2 and any problems encountered in their application.

The information referred to in paragraphs 1.2 and 1.3 shall be submitted on an annual basis. The information referred to in paragraphs 4.2 and 4.3 shall be submitted on a regular basis.

5 Reports submitted under paragraphs 4.2 and 4.3 shall be evaluated by an appropriate subsidiary body as determined by the Meeting of Contracting Parties. This body will report its conclusions to an appropriate Meeting or Special Meeting of Contracting Parties.

ARTICLE 10

APPLICATION AND ENFORCEMENT

1 Each Contracting Party shall apply the measures required to implement this Protocol to all:

.1 vessels and aircraft registered in its territory or flying its flag;

.2 vessels and aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated at sea; and

.3 vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas within which it is entitled to exercise jurisdiction in accordance with international law.

2 Each Contracting Party shall take appropriate measures in accordance with international law to prevent and if necessary punish acts contrary to the provisions of this Protocol.

3 Contracting Parties agree to co-operate in the development of procedures for the effective application of this Protocol in areas beyond the jurisdiction of any State, including procedures for the reporting of vessels and aircraft observed dumping or incinerating at sea in contravention of this Protocol.

4 This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Contracting Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organization accordingly.

5 A State may, at the time it expresses its consent to be bound by this Protocol, or at any time thereafter, declare that it shall apply the provisions of this Protocol to its vessels and aircraft referred to in paragraph 4, recognising that only that State may enforce those provisions against such vessels and aircraft.

ARTICLE 11

COMPLIANCE PROCEDURES

1 No later than two years after the entry into force of this Protocol, the Meeting of Contracting Parties shall establish those procedures and mechanisms necessary to assess and promote compliance with this Protocol. Such procedures and mechanisms shall be developed with a view to allowing for the full and open exchange of information, in a constructive manner.

2 After full consideration of any information submitted pursuant to this Protocol and any recommendations made through procedures or mechanisms established under paragraph 1, the Meeting of Contracting Parties may offer advice, assistance or co-operation to Contracting Parties and non-Contracting Parties.

ARTICLE 12

REGIONAL CO-OPERATION

In order to further the objectives of this Protocol, Contracting Parties with common interests to protect the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enhance regional co-operation including the conclusion of regional agreements consistent with this Protocol for the prevention, reduction and where practicable elimination of pollution caused by dumping or incineration at sea of wastes or other matter. Contracting Parties shall seek to co-operate with the parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned.

ARTICLE 13

TECHNICAL CO-OPERATION AND ASSISTANCE

1 Contracting Parties shall, through collaboration within the Organization and in coordination with other competent international organizations, promote bilateral and multilateral support for the prevention, reduction and where practicable elimination of pollution caused by dumping as provided for in this Protocol to those Contracting Parties that request it for:

.1 training of scientific and technical personnel for research, monitoring and enforcement, including as appropriate the supply of necessary equipment and facilities, with a view to strengthening national capabilities;

.2 advice on implementation of this Protocol;

.3 information and technical co-operation relating to waste minimization and clean production processes;

.4 information and technical co-operation relating to the disposal and treatment of waste and other measures to prevent, reduce and where practicable eliminate pollution caused by dumping; and

.5 access to and transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries and countries in transition to market economies, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries and countries in transition to market economies.

2 The Organization shall perform the following functions:

.1 forward requests from Contracting Parties for technical co-operation to other Contracting Parties, taking into account such factors as technical capabilities;

.2 co-ordinate requests for assistance with other competent international organizations, as appropriate; and

.3 subject to the availability of adequate resources, assist developing countries and those in transition to market economies, which have declared their intention to become Contracting Parties to this Protocol, to examine the means necessary to achieve full implementation.

ARTICLE 14

SCIENTIFIC AND TECHNICAL RESEARCH

1 Contracting Parties shall take appropriate measures to promote and facilitate scientific and technical research on the prevention, reduction and where practicable elimination of pollution by dumping and other sources of marine pollution relevant to this Protocol. In particular, such research should include observation, measurement, evaluation and analysis of pollution by scientific methods.

2 Contracting Parties shall, to achieve the objectives of this Protocol, promote the availability of relevant information to other Contracting Parties who request it on:

.1 scientific and technical activities and measures undertaken in accordance with this Protocol;

.2 marine scientific and technological programmes and their objectives; and

.3 the impacts observed from the monitoring and assessment conducted pursuant to article 9.1.3.

ARTICLE 15

RESPONSIBILITY AND LIABILITY

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, the Contracting Parties undertake to develop procedures regarding liability arising from the dumping or incineration at sea of wastes or other matter.

ARTICLE 16

SETTLEMENT OF DISPUTES

1 Any disputes regarding the interpretation or application of this Protocol shall be resolved in the first instance through negotiation, mediation or conciliation, or other peaceful means chosen by parties to the dispute.

2 If no resolution is possible within twelve months after one Contracting Party has notified another that a dispute exists between them, the dispute shall be settled, at the request of a party to the dispute, by means of the Arbitral Procedure set forth in Annex 3, unless the parties to the dispute agree to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea. The parties to the dispute may so agree, whether or not they are also States Parties to the 1982 United Nations Convention on the Law of the Sea.

3 In the event an agreement to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea is reached, the provisions set forth in Part XV of that Convention that are related to the chosen procedure would also apply, *mutatis mutandis*.

4 The twelve month period referred to in paragraph 2 may be extended for another twelve months by mutual consent of the parties concerned.

5 Notwithstanding paragraph 2, any State may, at the time it expresses its consent to be bound by this Protocol, notify the Secretary-General that, when it is a party to a dispute about the interpretation or application of article 3.1 or 3.2, its consent will be required before the dispute may be settled by means of the Arbitral Procedure set forth in Annex 3.

ARTICLE 17

INTERNATIONAL CO-OPERATION

Contracting Parties shall promote the objectives of this Protocol within the competent international organizations.

ARTICLE 18

MEETINGS OF CONTRACTING PARTIES

1 Meetings of Contracting Parties or Special Meetings of Contracting Parties shall keep under continuing review the implementation of this Protocol and evaluate its effectiveness with a view to identifying means of strengthening action, where necessary, to prevent, reduce and where practicable eliminate pollution caused by dumping and incineration at sea of wastes or other matter. To these ends, Meetings of Contracting Parties or Special Meetings of Contracting Parties may:

.1 review and adopt amendments to this Protocol in accordance with articles 21 and 22;

.2 establish subsidiary bodies, as required, to consider any matter with a view to facilitating the effective implementation of this Protocol;

.3 invite appropriate expert bodies to advise the Contracting Parties or the Organization on matters relevant to this Protocol;

.4 promote co-operation with competent international organizations concerned with the prevention and control of pollution;

.5 consider the information made available pursuant to article 9.4;

.6 develop or adopt, in consultation with competent international organizations, procedures referred to in article 8.2, including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter at sea in such circumstances;

.7 consider and adopt resolutions; and

.8 consider any additional action that may be required.

2 The Contracting Parties at their first Meeting shall establish rules of procedure as necessary.

ARTICLE 19

DUTIES OF THE ORGANIZATION

1 The Organization shall be responsible for Secretariat duties in relation to this Protocol. Any Contracting Party to this Protocol not being a member of this Organization shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties.

2 Secretariat duties necessary for the administration of this Protocol include:

.1 convening Meetings of Contracting Parties once per year, unless otherwise decided by Contracting Parties, and Special Meetings of Contracting Parties at any time on the request of two-thirds of the Contracting Parties;

.2 providing advice on request on the implementation of this Protocol and on guidance and procedures developed thereunder;

.3 considering enquiries by, and information from Contracting Parties, consulting with them and with the competent international organizations, and providing recommendations to Contracting Parties on questions related to, but not specifically covered by, this Protocol;

.4 preparing and assisting, in consultation with Contracting Parties and the competent international organizations, in the development and implementation of procedures referred to in article 18.6.;

.5 conveying to the Contracting Parties concerned all notifications received by the Organization in accordance with this Protocol; and

.6 preparing, every two years, a budget and a financial account for the administration of this Protocol which shall be distributed to all Contracting Parties.

3 The Organization shall, subject to the availability of adequate resources, in addition to the requirements set out in article 13.2.3.

.1 collaborate in assessments of the state of the marine environment; and

.2 co-operate with competent international organizations concerned with the prevention and control of pollution.

ARTICLE 20

ANNEXES

Annexes to this Protocol form an integral part of this Protocol.

ARTICLE 21

AMENDMENT OF THE PROTOCOL

1 Any Contracting Party may propose amendments to the articles of this Protocol. The text of a proposed amendment shall be communicated to Contracting Parties by the Organization at least six months prior to its consideration at a Meeting of Contracting Parties or a Special Meeting of Contracting Parties.

2 Amendments to the articles of this Protocol shall be adopted by a two-thirds majority vote of the Contracting Parties which are present and voting at the Meeting of Contracting Parties or Special Meeting of Contracting Parties designated for this purpose.

3 An amendment shall enter into force for the Contracting Parties which have accepted it on the sixtieth day after two-thirds of the Contracting Parties shall have deposited an instrument of acceptance of the amendment with the Organization. Thereafter the amendment shall enter into force for any other Contracting Party on the sixtieth day after the date on which that Contracting Party has deposited its instrument of acceptance of the amendment.

4 The Secretary-General shall inform Contracting Parties of any amendments adopted at Meetings of Contracting Parties and of the date on which such amendments enter into force generally and for each Contracting Party.

5 After entry into force of an amendment to this Protocol, any State that becomes a Contracting Party to this Protocol shall become a Contracting Party to this Protocol as amended, unless two-thirds of the Contracting Parties present and voting at the Meeting or Special Meeting of Contracting Parties adopting the amendment agree otherwise.

ARTICLE 22

AMENDMENT OF THE ANNEXES

1 Any Contracting Party may propose amendments to the Annexes to this Protocol. The text of a proposed amendment shall be communicated to Contracting Parties by the Organization at least six months prior to its consideration at a Meeting of Contracting Parties or Special Meeting of Contracting Parties.

2 Amendments to the Annexes other than Annex 3 will be based on scientific or technical considerations and may take into account legal, social and economic factors as appropriate. Such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties present and voting at a Meeting of Contracting Parties or Special Meeting of Contracting Parties designated for this purpose.

3 The Organization shall without delay communicate to Contracting Parties amendments to the Annexes that have been adopted at a Meeting of Contracting Parties or Special Meeting of Contracting Parties.

4 Except as provided in paragraph 7, amendments to the Annexes shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organization or 100 days after the date of their

adoption at a Meeting of Contracting Parties, if that is later, except for those Contracting Parties which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. A Contracting Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Contracting Party.

5 The Secretary-General shall without delay notify Contracting Parties of instruments of acceptance or objection deposited with the Organization.

6 A new Annex or an amendment to an Annex which is related to an amendment to the articles of this Protocol shall not enter into force until such time as the amendment to the articles of this Protocol enters into force.

7 With regard to amendments to Annex 3 concerning the Arbitral Procedure and with regard to the adoption and entry into force of new Annexes the procedures on amendments to the articles of this Protocol shall apply.

ARTICLE 23

RELATIONSHIP BETWEEN THE PROTOCOL AND THE CONVENTION

This Protocol will supersede the Convention as between Contracting Parties to this Protocol which are also Parties to the Convention.

ARTICLE 24

SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1 This Protocol shall be open for signature by any State at the Headquarters of the Organization from 1 April 1997 to 31 March 1998 and shall thereafter remain open for accession by any State.

2 States may become Contracting Parties to this Protocol by:

.1 signature not subject to ratification, acceptance or approval; or

.2 signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

.3 accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

ARTICLE 25

ENTRY INTO FORCE

1 This Protocol shall enter into force on the thirtieth day following the date on which:

.1 at least 26 States have expressed their consent to be bound by this Protocol in accordance with article 24; and

.2 at least 15 Contracting Parties to the Convention are included in the number of States referred to in paragraph 1.1.

2 For each State that has expressed its consent to be bound by this Protocol in accordance with article 24 fol-

lowing the date referred to in paragraph 1, this Protocol shall enter into force on the thirtieth day after the date on which such State expressed its consent.

ARTICLE 26

TRANSITIONAL PERIOD

1 Any State that was not a Contracting Party to the Convention before 31 December 1996 and that expresses its consent to be bound by this Protocol prior to its entry into force or within five years after its entry into force may, at the time it expresses its consent, notify the Secretary-General that, for reasons described in the notification, it will not be able to comply with specific provisions of this Protocol other than those provided in paragraph 2, for a transitional period that shall not exceed that described in paragraph 4.

2 No notification made under paragraph 1 shall affect the obligations of a Contracting Party to this Protocol with respect to incineration at sea or the dumping of radioactive wastes or other radioactive matter.

3 Any Contracting Party to this Protocol that has notified the Secretary-General under paragraph 1 that, for the specified transitional period, it will not be able to comply, in part or in whole, with article 4.1 or article 9 shall nonetheless during that period prohibit the dumping of wastes or other matter for which it has not issued a permit, use its best efforts to adopt administrative or legislative measures to ensure that issuance of permits and permit conditions comply with the provisions of Annex 2, and notify the Secretary-General of any permits issued.

4 Any transitional period specified in a notification made under paragraph 1 shall not extend beyond five years after such notification is submitted.

5 Contracting Parties that have made a notification under paragraph 1 shall submit to the first Meeting of Contracting Parties occurring after deposit of their instrument of ratification, acceptance, approval or accession a programme and timetable to achieve full compliance with this Protocol, together with any requests for relevant technical co-operation and assistance in accordance with article 13 of this Protocol.

6 Contracting Parties that have made a notification under paragraph 1 shall establish procedures and mechanisms for the transitional period to implement and monitor submitted programmes designed to achieve full compliance with this Protocol. A report on progress toward compliance shall be submitted by such Contracting Parties to each Meeting of Contracting Parties held during their transitional period for appropriate action.

ARTICLE 27

WITHDRAWAL

1 Any Contracting Party may withdraw from this Protocol at any time after the expiry of two years from the date on which this Protocol enters into force for that Contracting Party.

2 Withdrawal shall be effected by the deposit of an instrument of withdrawal with the Secretary-General.

3 A withdrawal shall take effect one year after receipt by the Secretary-General of the instrument of withdrawal or such longer period as may be specified in that instrument.

ARTICLE 28

DEPOSITARY

1 This Protocol shall be deposited with the Secretary-General.

2 In addition to the functions specified in articles 10.5, 16.5, 21.4, 22.5 and 26.5, the Secretary-General shall:

.1 inform all States which have signed this Protocol or acceded thereto of:

.1 each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

.2 the date of entry into force of this Protocol; and

.3 the deposit of any instrument of withdrawal from this Protocol together with the date on which it was received and the date on which the withdrawal takes effect;

.2 transmit certified copies of this Protocol to all States which have signed this Protocol or acceded thereto.

3 As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 29

AUTHENTIC TEXTS

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Protocol.

DONE AT LONDON, this seventh day of November, one thousand nine hundred and ninety-six.

ANNEX 1

WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

1 The following wastes or other matter are those that may be considered for dumping being mindful of the Objectives and General Obligations of this Protocol set out in articles 2 and 3:

.1 dredged material;

.2 sewage sludge;

.3 fish waste, or material resulting from industrial fish processing operations;

.4 vessels and platforms or other man-made structures at sea;

.5 inert, inorganic geological material;

.6 organic material of natural origin; and

.7 bulky items primarily comprising iron, steel, concrete and similarly unharmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.

2 The wastes or other matter listed in paragraphs 1.4 and 1.7 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.

3 Notwithstanding the above, materials listed in paragraphs 1.1 to 1.7 containing levels of radioactivity greater than *de minimis* (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of 20 February 1994, and at each 25 year interval thereafter, Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in article 22.

ANNEX 2

ASSESSMENT OF WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

GENERAL

1 The acceptance of dumping under certain circumstances shall not remove the obligations under this Annex to make further attempts to reduce the necessity for dumping.

WASTE PREVENTION AUDIT

2 The initial stages in assessing alternatives to dumping should, as appropriate, include an evaluation of:

.1 types, amounts and relative hazard of wastes generated;

.2 details of the production process and the sources of wastes within that process; and

.3 feasibility of the following waste reduction/prevention techniques:

.1 product reformulation;

.2 clean production technologies;

.3 process modification;

.4 input substitution; and

.5 on-site, closed-loop recycling.

3 In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant is expected to formulate and implement a waste prevention strategy, in collaboration with relevant local and national agencies, which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal decisions shall assure compliance with any resulting waste reduction and prevention requirements.

4 For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. Until this objective is met, the problems of contaminated dredged material may be addressed by using disposal management techniques at sea or on land.

CONSIDERATION OF WASTE MANAGEMENT OPTIONS

5 Applications to dump wastes or other matter shall demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:

.1 re-use;

.2 off-site recycling;

.3 destruction of hazardous constituents;

.4 treatment to reduce or remove the hazardous constituents; and

.5 disposal on land, into air and in water.

6 A permit to dump wastes or other matter shall be refused if the permitting authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

CHEMICAL, PHYSICAL AND BIOLOGICAL PROPERTIES

7 A detailed description and characterization of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterized that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.

8 Characterization of the wastes and their constituents shall take into account:

.1 origin, total amount, form and average composition;

.2 properties: physical, chemical, biochemical and biological;

.3 toxicity;

.4 persistence: physical, chemical and biological; and

.5 accumulation and biotransformation in biological materials or sediments.

ACTION LIST

9 Each Contracting Party shall develop a national Action List to provide a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment. In selecting substances for consideration in an Action List, priority shall be given to toxic, persistent and bioaccumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogens, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogens). An Action List can also be used as a trigger mechanism for further waste prevention considerations.

10 An Action List shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action List will result in three possible categories of waste:

.1 wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;

.2 wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and

.3 wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.

DUMP-SITE SELECTION

11 Information required to select a dump-site shall include:

.1 physical, chemical and biological characteristics of the water-column and the seabed;

.2 location of amenities, values and other uses of the sea in the area under consideration;

.3 assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and

.4 economic and operational feasibility.

ASSESSMENT OF POTENTIAL EFFECTS

12 Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options, i.e., the "Impact Hypothesis". It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

13 The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes, and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

14 An analysis of each disposal option should be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.

15 Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

MONITORING

16 Monitoring is used to verify that permit conditions are met - compliance monitoring - and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health - field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

PERMIT AND PERMIT CONDITIONS

17 A decision to issue a permit should only be made if all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimized and the benefits maximized. Any permit issued shall contain data and information specifying:

.1 the types and sources of materials to be dumped;

.2 the location of the dump-site(s);

.3 the method of dumping; and

.4 monitoring and reporting requirements.

18 Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.

ANNEX 3

ARBITRAL PROCEDURE

Article 1

1 An Arbitral Tribunal (hereinafter referred to as the "Tribunal") shall be established upon the request of a Contracting Party addressed to another Contracting Party in application of article 16 of this Protocol. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2 The requesting Contracting Party shall inform the Secretary-General of:

.1 its request for arbitration; and

.2 the provisions of this Protocol the interpretation or application of which is, in its opinion, the subject of disagreement.

3 The Secretary-General shall transmit this information to all Contracting States.

Article 2

1 The Tribunal shall consist of a single arbitrator if so agreed between the parties to the dispute within 30 days from the date of receipt of the request for arbitration.

2 In the case of the death, disability or default of the arbitrator, the parties to a dispute may agree upon a replacement within 30 days of such death, disability or default.

Article 3

1 Where the parties to a dispute do not agree upon a Tribunal in accordance with article 2 of this Annex, the Tribunal shall consist of three members:

.1 one arbitrator nominated by each party to the dispute; and

.2 a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2 If the Chairman of a Tribunal is not nominated within 30 days of nomination of the second arbitrator, the parties to a dispute shall, upon the request of one party, submit to the Secretary-General within a further period of 30 days an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is or has been a national of one party to the dispute except with the consent of the other party to the dispute.

3 If one party to a dispute fails to nominate an arbitrator as provided in paragraph 1.1 within 60 days from the date of receipt of the request for arbitration, the other party may request the submission to the Secretary-General within a period of 30 days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the party which has not nominated an arbitrator to do so. If this party does not nominate an arbitrator within 15 days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4 In the case of the death, disability or default of an arbitrator, the party to the dispute who nominated him shall nominate a replacement within 30 days of such death, disability or default. If the party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with the provision of paragraphs 1.2 and 2 within 90 days of such death, disability or default.

5 A list of arbitrators shall be maintained by the Secretary-General and composed of qualified persons nominated by the Contracting Parties. Each Contracting Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 4

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article 5

Each party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the parties.

Article 6

Any Contracting Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal and at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral argument on the matters giving rise to its intervention, in accordance with procedures established pursuant to article 7 of this Annex, but shall have no rights with respect to the composition of the Tribunal.

Article 7

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 8

1 Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2 The parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

.1 provide the Tribunal with all necessary documents and information; and

.2 enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3 The failure of a party to the dispute to comply with the provisions of paragraph 2 shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 9

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be

communicated to the Secretary-General who shall inform the Contracting Parties. The parties to the dispute shall immediately comply with the award.

Memorandum of Understanding on Port State control in the Mediterranean Region, Malta, 1997

Done at Malta 11 July 1997

Primary source citation: Copy of text provided by the United Nations

ANNEX I

THIRD PREPARATORY MEETING ON
REGIONAL CO-OPERATION ON PORT
STATE CONTROL IN THE
MEDITERRANEAN
Malta, 8-11 July 1997

MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE MEDITERRANEAN REGION (MEDITERRANEAN MOU)

The Maritime Authorities (1) of

Algeria
Cyprus
Egypt
Israel
Lebanon
Malta
Morocco
Tunisia
Turkey
Palestinian Authority

hereinafter referred to as "the Authorities"

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Recalling the Declaration adopted on 28 November 1995 on the occasion of the Euro-Mediterranean Conference in Barcelona, establishing a Euro-Mediterranean partnership and including, *inter alia*, co-operation in maritime safety and pollution prevention in the Mediterranean basin;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organization (IMO) and the International Labour Organization (ILO);

Noting also the contribution which has and which can be made by the European Community towards meeting the above-mentioned objectives;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

have reached the following understanding:

(1) **Maritime Authorities** are the national maritime administrations designated for the implementation of this Memorandum (see Annex 1).

Section 1 Commitments

1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto which constitute an integral part of the Memorandum, and take all necessary steps to ratify instruments relevant for the purposes of this Memorandum.

1.2 Each Authority will establish and maintain an effective system of port State control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.

1.3 Each Authority will achieve, within a period of 3 years from the coming into effect of the Memorandum an annual total of inspections corresponding to 15% of the estimated number of individual foreign merchant ships, hereinafter referred to as "ships", which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to Section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the target inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.

1.4 Each Authority will consult, co-operate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant instruments

2.1 For the purposes of the Memorandum "relevant instruments" are, together with the Protocols and amendments to these instruments and related codes of mandatory status in force the following instruments:

* the International Convention on Load Lines, 1966;
* the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
* the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
* the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
* the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78);

* the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

* the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No.147),

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147). Each Authority will apply the instructions in Annex 1 for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the "relevant instrument" for that Authority.

2.4 When inspecting a ship flying the flag of a State not party to a Convention or a "relevant instrument" as amended for the purposes of port State control, the Authorities which are party to such Convention or "relevant instrument" as amended shall ensure that the treatment given to such ship and its crew is not more favourable than that given to ships flying the flag of a State which is party to that Convention or "relevant instrument".

2.5 In the case of ships below 500 tons gross tonnage the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Annex 2.

Section 3 Inspection procedures, rectification and detention

3.1.1 In implementing the Memorandum, the Authorities will carry out inspections which will consist of a visit on board a ship in order to check the validity of the certificates and other documents relevant for the purposes of the Memorandum as well as the condition of the ship, its equipment and crew, as well as the living and working conditions of the crew.

3.1.2 The Authority shall ensure that the inspector shall, as a minimum, check the certificates and documents listed in Annex 2, to the extent applicable and satisfy himself of the overall conditions of the ship including the engine room and the accommodations and the hygienic conditions.

3.2.1 Whenever there are clear grounds for believing that the condition of a ship or of its equipment or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.

3.2.2 Clear grounds exist when the inspector finds evidence which in his professional judgement warrants a more detailed inspection of ship, equipment or crew. The Authorities will regard as clear ground, *inter alia*, those set out in Annex 3.

3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

3.2.4 The relevant procedures and guidelines for control of ships specified in Annex 2 shall also be applied.

3.3 In selecting ships for inspection, the Authorities shall give priority to the following ships:

— ships visiting a port of a State, the Authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more;

— ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;

— ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;

— ships whose statutory certificates on the ship's construction and equipment, have not been issued in accordance with the relevant instruments;

— ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ship's particulars, the ship's movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;

— ships which have been suspended from their class for safety reasons in the course of the preceding six months.

3.4 The Authorities will seek to endeavour to inspect ships which have not been inspected within the previous 6 months by other Authorities unless there are clear grounds for inspection. These procedures are not applicable to ships listed under 3.3 which may be inspected whenever the Authority deems appropriate.

3.5.1 Inspections will be carried out only by a person, duly authorized by his Authority to carry out port State inspections and responsible to that Authority, who fulfils the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 4.

3.5.2 The inspector carrying out port State control may be assisted by a person with the required expertise when such expertise cannot be provided by his Authority.

3.5.3 The inspector carrying out port State control and the person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall the inspector be employed or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

3.5.4 Each inspector shall carry a personal document in the form of an identity card issued by his authority indicating that the inspector is authorized to carry out inspections. A common model for such an identity card is attached at Annex 5.

3.6.1 On completion of an inspection the master of ship shall be provided by the inspector with a document in the form specified in Annex 6 to this Memorandum of Understanding, giving the results of the inspection and details of any decision taken by the inspector and of the corrective action to be taken by the master, owner, or operator.

3.6.2 The Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.

3.6.3 In the case of deficiencies which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in the course of which the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8.1 below.

3.6.4 When exercising his professional judgement as to whether or not a ship should be detained, the inspector shall be guided by the criteria set out in Annex 2.

3.7 In the event that a ship is detained the Authority shall immediately inform the administration of the State whose flag the ship is entitled to fly and the consul or, in his absence, its nearest diplomatic representative of the action taken. Where relevant, the organization responsible for the issue of the certificates shall also be informed.

3.8.1 Where deficiencies referred to in 3.6.3 cannot be remedied in the port of inspection, the Authority may allow the ship to proceed to another port, or the nearest repair yard subject to any appropriate conditions determined by that Authority with a view to ensuring that the ship can so proceed without danger to safety, health or the environment. In such circumstances the Authority will notify the competent Authority of the region State where the next port of call or the repair yard is situated, the parties mentioned in 3.7 and any other Authority as appropriate. Notification to Authorities will be made in accordance with Annex 7. The Authority receiving such notification will inform the notifying Authority of action taken.

3.8.2 The Authorities will take measures to ensure that ships referred to in 3.8.1 which either proceed to sea without complying with the conditions determined by the Authority which detained the ship or which do not call into the agreed port or yard to undertake repairs, shall be refused access to any port within this Memorandum until the owner or operator and the flag State notify the Authority of the State where the ship was found defective or the Authority which receives the vessel that the ship complies with all applicable requirements of the relevant instruments. In the latter case, the receiving Authority will notify all other Authorities of such compliance.

3.8.3 In the exceptional event of "force majeure", access to a specific port may be permitted to minimize the risk of life or of pollution.

3.9 The provisions of Section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.

3.10 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

3.11 In case the master, owner or agent of the ship notifies the port State control Authorities prior to or upon arrival of the vessel at the port, of any damage, breakdown or deficiency to the ship, its machinery and equipment, which is intended to be repaired or rectified before the ship sails from that port, the detention should be recorded only if deficiencies justifying detentions are found after the master has given notification that the ship was ready for inspectors. The same procedure applies when the port State control Authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.

3.12 In exceptional circumstances, when a ship on its way to a specified repair yard needs to call at a port for temporary repairs for safety reasons, it may be allowed into that port. All commercial operations are forbidden, except the unloading of its cargo if required for safety reasons. The ship may be allowed to proceed to the specified repair yard only if the flag State of the ship has issued statutory certificates to the ship restricting their validity to that specific voyage, and the port State is satisfied that such ship shall not pose undue risk to safety of ship, or to the environment or cause undue hardship to the crew.

3.13 The owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.

3.14 Should an inspection reveal deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the first shall be covered by the shipowner or the operator. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Section 4 Provision of information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 8.

4.2 The Authorities will supply the following information to the Memorandum Secretariat

(a) number of inspectors working on their behalf on port State inspections. Where inspections work on a part-time basis, the total is corrected into a number of full-time employed inspectors;

(b) number of individual ships entering their ports in a representative year prior to the Memorandum;

(c) fees for inspections, if any.

This information will be updated at least every three years.

Section 5 Operational violations

The Authorities will upon the request of another Authority endeavour to secure evidence relating to suspected violations of the requirements on operation matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. In the cases referred to in this article, the requesting Authority should state that the flag State of the ship has already been notified of the alleged violation.

Section 6 Training programmes and seminars

The Authorities will endeavour to establish appropriate training programmes and seminars.

Section 7 Organization

7.1 A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organization, of the International Labour Organization and of the European Commission will be invited to participate without vote in the work of the Committee. Representatives of the maritime Authorities of other Mediterranean Coastal States and, subject to the provisions of Section 10, any other Organization or Authority which the Committee may deem appropriate, may be accorded the status of observer without vote.

7.2 The Committee will meet once a year and at such other times as it may decide.

7.3 The Committee will:

* carry out the specific tasks assigned to it under the Memorandum;

* promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;

* develop and review guidelines for carrying out inspections under the Memorandum;

* develop and review procedures, including those related to the exchange of information;

* keep under review other matters relating to the operation and the effectiveness of the Memorandum;

* promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;

* adopt the budget and decide the contributions of every Party to the Memorandum.

7.4 Except where provided otherwise (in Section 9), the Committee will take its decisions acting on simple majority.

7.5 A Secretariat provided by the Maritime Authority of Egypt will be set up and will have its office in Alexandria, Egypt.

7.6 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:

* prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

* facilitate the exchange of information, carry out the procedures outlined in Annex 4 and prepare reports as may be necessary for the purposes of the Memorandum;

* carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Financial Mechanism

The costs for running the Secretariat and the Information Centre are financed by:

— the financial contribution of every Party to the Memorandum;

— if possible, gifts and subventions by donor countries or organizations.

Financial contributions to the costs for running the Secretariat and the Information Centre of Parties to the Memorandum are to be settled, in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.

9.2 In the case of proposed amendments to sections of the Memorandum the following procedure will apply:

(a) the proposed amendment will be submitted through the Secretariat for consideration by the Committee;

(b) amendments will be adopted by a two-thirds majority of the representative of the Authorities present and voting in the Committee.

If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance.

The amendments of paragraph 1 of Section 2 are adopted by a two-thirds majority of the representatives of the Authorities present and voting which are party to the new Convention proposed for inclusion as "relevant instrument".

(c) an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority;

(d) an amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

9.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply:

(a) the proposed amendment will be submitted through the Secretariat for consideration by the Authorities;

(b) the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply;

(c) the amendment will take effect 60 days after it has been accepted or at the end of any period determined unanimously by the Authorities.

Section 10 Administrative provisions

10.1 The Memorandum is without prejudice to the rights and obligations under any international Agreement.

10.2 A Maritime Authority of a State, which complies with the criteria specified in Annex 9, may adhere to the Memorandum with the consent of all Authorities which have accepted the Memorandum.

10.3 The Memorandum remains open for signature, at the Headquarters of the Secretariat* of the Committee from 11 July 1997 to 23 February 1998. Maritime Authorities meeting the requirements specified in Annex 9 may become parties of the Memorandum by:

a) signature without any reservations as to acceptance, or

b) signature subject to acceptance, followed by acceptance.

10.4 Acceptance or accession will be effected by a written communication by the Maritime Authorities to the Secretariat.

10.5 The Secretariat will inform the Maritime Authorities who have signed the Memorandum of any signature or written communication, or of acceptance or accession and of the date on which such an event has taken place

10.6 This Memorandum will enter into force for each Authority on the date duly notified to the Secretariat.

* located at the Ministry of Maritime Transport at the address listed in Annex 1

10.7 Any Maritime Authority or Organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.

10.8 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

10.9 The English, French and Arabic versions are equally authentic. The English text is the official version of the Memorandum in case of dispute.

Signed at Malta in the English language, this eleventh day of July of one thousand nine hundred and ninety seven.

ANNEX 1

LIST OF MARITIME ADMINISTRATIONS "MARITIME AUTHORITIES"

Algeria

Directeur de la Marine Marchande
Ministère des Transports
Direction de la Marine Marchande
119 rue Didouche Mourad
Algiers, Algeria

Tel: 2 74 75 72
Fax: 2 74 33 95

Cyprus

Department of Merchant Shipping
Ministry of Communications and Works
Mare Cypria Court
15 Nafpliou Street
CY-3025 Limassol
Cyprus

Tel: +357 5 330320
Fax: +357 5 330264

Egypt

Ministry of Maritime Transport
First Under-Secretary of State
4 Patalsa Street
Alexandria, Egypt

Tel: 203 484 2058
203 484 3631
Fax: 203 484 2096

Israel

Ministry of Transport
Administration of Shipping and Ports
102 Ha'atzmaut Street
Haifa
33411 Israel

Tel: 972 4 8539275
Fax: 972 4 853 6224

Lebanon

Director General
Ministry of Transport
Starco Building
Beirut, Lebanon

Tel: 961 1 371644
961 1 371645
Fax: 961 1 371647

Malta

Malta Maritime Authority
Merchant Shipping Directorate
Maritime House
Lascaris Wharf
Valletta VLT 01
Malta

Tel: +356 250 350
Fax: +356 241 460

Morocco

Directeur Général de la Marine Marchande
Bd. Houphouet Boigny
Casablanca, Morocco

Tel: (212 2) 27 80 92/27 60 10
Fax: (212 2) 27 33 40

Tunisia

Directeur Général de la Marine Marchande
24 Avenue de la Republique
1001 Tunis
Tunisie

Tel: 216 1 353 241
Fax: 216 1 354 244

Turkey

Basbakanlik Denizcilik Mustesarligi
G.M.K. Bulvari No. 128
Maltepe - Ankara 06100
Turkey

Tel: (90-312) 231 30 52
Fax: (90-312) 231 13 79

Palestinian Authority

Acting Port State Control Authority
Palestine Coastal Police (PCP)
Ansar, Gaza
Palestine

Tel: 07 824 701
Fax: 07 824 702

ANNEX 2

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF INTERNATIONAL SHIPPING

Contents

Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships.
1.2 Principles governing rectification of deficiencies or detention of a ship.
1.3 Application of the clause of "no more favourable treatment".

Section 2 The safety of the ship as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78

2.1 More detailed inspection.

Section 3 Minimum manning standards and certification

3.1 Introduction
3.2 Manning control
3.3 Certification control
3.4 Detention

Section 4 Merchant shipping (Minimum Standards) Convention, 1976 (No.147)

Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in section 3.1 of the Memorandum refer to the relevant provisions of the following:

* Procedures for Port State Control (IMO resolution A.787(19)).
* Principles of Safe Manning (IMO resolution A.481(XII) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2).
* The provisions of the International Maritime Dangerous Goods Code.
* ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".
* The procedures laid down in the Annex to the Memorandum.

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the surveyor shall take into consideration the results of the detailed inspection carried out in accordance with section 3. The surveyor shall exercise his professional judgement in determining whether to detain the ship until the deficiencies are corrected or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health, or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of ILO Convention No.147, special procedures shall be observed set out in sections 3 and 4 of this Annex.

1.3 Application of the clause of "no more favourable treatment"

In applying Section 2.4 the following shall be observed. Ships entitled to fly the flag of a State which is not a party to a relevant instrument listed in Section 2 and thus not provided with certificates representing *prima facie* evidence of satisfactory conditions on board, shall receive a detailed inspection. In making such an inspection the surveyor should follow the same guidelines as provided for ships to which the relevant instruments are applicable.

The conditions of and on such a ship and its equipment and the certification of the crew, its number and composition shall be compatible with the aims of the provisions of a relevant instrument otherwise the ship shall be subject to such restrictions as are necessary to obtain a comparable level of safety.

Section 2 The safety of the ships as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78

2.1 More detailed inspection

In so far as there are clear grounds for a more detailed inspection relating to the provisions of the SOLAS Convention, the Protocol thereto, the Load Lines Convention, Convention on Collision Regulations and MARPOL 73/78, the surveyor when carrying out this inspection shall take into account the considerations given in "Procedures for Port State Control" (IMO resolution A.787(19)), the provisions of the International Maritime Dangerous Goods Code and the provisions of Section 4 with regard to living and working conditions on board ships.

Section 3 Minimum manning standards and certification

3.1 Introduction

The guiding principle for port State inspection of the manning of a foreign ship should be to establish conformity with the flag State's safe manning requirements. Where this is in doubt the flag State should be consulted. Such safe manning requirements stem from:

* the International Convention for the Safety of Life at Sea (SOLAS) 1974
* the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention 147) which *inter alia* refers to the ILO Convention No. 53 Articles 3 and 4;
* the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended;
* the Contents of Minimum Safe Manning Document (IMO resolution A.481(XII) Annex 1);
* the Guidelines for the Application of Principles of Safe Manning (IMO resolution A.481(XII), Annex 2).

Detention as port State action shall only be taken on the grounds laid down in the relevant instruments and used in conjunction with advice from the flag State. Where such response is not readily forthcoming, and the extent of the manning deficiency is such as to render the ship clearly unsafe for the intended voyage or service, detention may be the only resort.

3.2 Manning control

3.2.1 If a ship is manned in accordance with a safe manning document or equivalent document issued by the flag State, the surveyor should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and in the IMO Guidelines for the Application of Principles of Safe Manning. In this last case, the surveyor should act according to the procedures defined in paragraph 3.2.3.

3.2.2 If the actual crew number or composition does not conform to the manning document, the port State should request the flag State for advice whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible.

The reply if any, from the flag State should be confirmed by telex. If the actual crew number and composition is not brought into accordance with the safe manning document or the flag State does not advise that the ship could sail, the ship may be considered for detention after the criteria set out in paragraph 3.4 of this Annex have been taken into proper account.

3.2.3 If the ship does not carry a safe manning document or equivalent, the port State should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible. In case the actual number or composition of the crew does not conform to the specifications received from the flag State, the procedure as contained in paragraph 3.2.2 applies. If the flag State does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1. The ship shall only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4. In any such case the minimum standards to be applied shall be no more stringent than those applied to ships flying the flag of the port State. The lack of a safe manning document shall be reported as a deficiency.

3.3 Certification control

3.3.1 General certification control upon ships should be carried out in accordance with the procedures stipulated in Article X and in Regulation 1/4 of the STCW Convention.

3.3.2 Certification control upon ships engaged in the carriage of liquid hazardous cargo in bulk should be more stringent. The surveyor should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having had the appropriate training and experience.

No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified. With regard to appropriate training, reference is made to chapter V of the STCW Convention, to resolutions 10, 11 and 12 adopted by the International Conference on Training and Certification of Seafarers 1978 and to the relevant sections of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

* length and nature of the intended voyage or service;
* whether or not the deficiency poses a danger to ship, persons on board or the environment;
* whether or not appropriate rest periods of the crew can be observed;
* size and type of ship and equipment provided;
* nature of cargo.

The absence of a Deck or Engineer Officer required to be certificated should not be grounds for detention where the absence is in accordance with any exceptional provisions approved by the flag State.

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No.147)

4.1 Inspections on board ships under the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention No.147) shall relate to:

(a) the Minimum Age Convention, 1973 (No.138); or the Minimum Age (Sea) Convention (Revised, 1936 (No.58), or the Minimum Age (Sea) Convention, 1920 (No.7);

(b) the Medical Examination (Seafarers) Convention, 1946 (No.73);

(c) the Prevention of Accidents (Seafarers) Convention, 1970 (No.134) (Articles 4 and 7);

(d) the Accommodation of Crews Convention (Revised), 1949 (No.92);

(e) the Food and Catering (Ship's Crews) Convention, 1946 (No.68) (Article 5);

(f) the Officers' Competency Certificates Convention, 1936 (No.53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in Section 3 of this Annex. In the exercise of control functions the surveyor, in the light of his general impression of the ship, will have to use his professional judgement to decide whether the ship shall receive a more detailed inspection. All complaints regarding conditions on board should be investigated thoroughly and action taken as deemed necessary by the circumstances. He shall also use his professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions, and may if necessary detain the ship until appropriate corrective action is taken.

4.2 In so far as there are clear grounds for a more detailed inspection relating to the provisions of ILO Convention No.147, the surveyor when carrying out an inspection shall take into account the previous paragraph in this section and the considerations given in the ILO publication "Inspection of Labour Conditions on board Ship: guidelines for procedure".

4.3 The Conventions relevant in the framework of the provisions of paragraph 4.4 are:

(a) the Seamen's Articles of Agreement Convention, 1926 (No.22);

(b) the Repatriation of Seamen Convention 1926 (No.23);

(c) the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No.55); or the Sickness Insurance (Sea) Convention, 1936 (No.56); or the Medical Care and Sickness Benefits Convention, 1969 (No.130);

(d) the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87);

(e) the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

4.4 If the surveyor receives a complaint to the effect that the standards laid down in the Conventions listed in paragraph 4.3 are not met, the matter should be reported to the nearest maritime, consular or diplomatic representation of the flag State for further action. If deemed necessary, the appropriate Authority may prepare a report to the flag State, if possible with evidence, with a copy to the ILO.

4.5 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship: *Guidelines* for procedure" which deal with:

* control procedures for national flag ships;

* vocational training;

* officer's certificates of competency;

* hours of work and manning;

should not be considered as relevant provisions for the inspection of ships but as information to surveyors only.

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF CARGO SHIPS BELOW 500 TONS GROSS TONNAGE AND SHIPS OF TRADITIONAL BUILD

Section 1 Mediterranean cargo ships below 500 tons gross tonnage

1.1 The following is a guide for the application of Section 2.5 in respect of Mediterranean cargo ships below 500 tons gross tonnage.

1.2 To the extent a relevant instrument is not applicable to a ship below 500 tons gross tonnage, the surveyor shall be guided by the provisions of the "Mediterranean Cargo Ship Safety Regulations".

Section 2 Ships of traditional build

2.1 The following is a guide for the application of Section 2.5 in respect of ships of traditional build

2.2 To the extent a relevant instrument is not applicable to a ship of traditional build, the surveyor's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment the surveyor shall take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

2.3 In the exercise of his functions under paragraph 2.2, the surveyor should be guided by any certificates and other documents issued by the flag State. The surveyor will, in the light of such certificates and documents and in

his general impression of the ship, use his professional judgement in deciding whether and in what respects the ship shall receive a more detailed inspection, taking into account the factors mentioned in paragraph 2.2. When carrying out a more detailed inspection the surveyor shall, to the extent he deems necessary, pay attention to the items listed in paragraph 2.4. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

2.4 Items of general importance

2.4.1 Items related to the conditions of assignment of load lines:

* weathertight (or watertight as the case may be) integrity of exposed decks;
* hatches and closing appliances;
* weathertight closures to openings in superstructures;
* freeing arrangements;
* side outlets;
* ventilators and air pipes;
* stability information.

2.4.2 Other items related to the safety of life at sea:

* life-saving appliances;
* fire-fighting appliances;
* general structural conditions (i.e. hull, deck, hatch covers, etc.);
* main machinery and electrical installations;
* navigational equipment including radio installations.

2.4.3 Items related to the prevention of pollution from ships:

* means for the control of discharge of oil and oily mixtures, e.g., oily water separating or other equivalent means (tank(s)) for retaining oil, oily mixtures, oil residues;
* presence of oil in the engine room bilges.

2.5 In the case of deficiencies which are considered to safety, health or the environment the surveyor shall take such action, which may include detention as may be necessary, having regard to the factors mentioned in paragraph 2.2, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

ANNEX 3

FACTS REGARDED AS "CLEAR GROUNDS"

The Authorities will regard as "clear grounds" *inter alia* the following:

.1 a report or notification by another Authority;

.2 a report or complaint by the master, a crew member, or any person or organization with a legitimate

interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded. The identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned;

.3 other indications which may warrant a more detailed or an expanded inspection, having regard in particular to Annex 1.

For the purpose of control on compliance with on-board operational requirements, specific "clear grounds" are the following:

.1 evidence of operational shortcomings revealed during port State control procedures in accordance with SOLAS 74, MARPOL 73/78 and STCW 1978;

.2 evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines;

.3 involvement of the ship in incidents due to failure to comply with operational requirements;

.4 evidence, from the witnessing of a fire and abandon ship drill, that the crew are not familiar with essential procedures;

.5 absence of an up-to-date muster list;

.6 indications that the relevant crew members are unable to communicate appropriately with each other, or with other persons on board, or that the ship is unable to communicate with the shore-based authorities either in a common language or in the language of those authorities.

ANNEX 4

QUALIFICATION CRITERIA FOR PORT STATE CONTROL OFFICERS

1 In pursuance of the provisions of 3.5 of the Memorandum, the port State control officer must be properly qualified and authorized by the Authority to carry out port State control inspections.

2 A properly qualified port State control officer must have completed a minimum of one year's service as a flag State surveyor dealing with surveys and certification in accordance with the relevant instruments and be in possession of:

.1 a certificate of competency as master, enabling that person to take command of a ship of 1,600 tons gross tonnage or more (see STCW, Regulation II/2), or

.2 a certificate of competency as chief engineer, enabling that person to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 kW (see STCW, Regulation III/2), or

.3 has passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least 5 years, or

.4 has an equivalent qualification as determined by the Administration.

The port State control officers mentioned under .1 and .2 above must have served for a period of not less than five years at sea as officer in the deck or engine department.

3 Alternatively, a port State control officer is deemed to be properly qualified if that person:

.1 holds a relevant university degree or an equivalent training, and

.2 has been trained and qualified at a school for ship safety inspectors, and

.3 has served at least 2 years as a flag State surveyor dealing with surveys and certification in accordance with the relevant instruments.

4 A properly qualified port State control officer must be able to communicate orally and in writing with seafarers in the language most commonly spoken at sea.

5 A properly qualified port State control officer must have appropriate knowledge of the provisions of the relevant instruments and of the relevant procedures on port State control.

6 Port State control officers not fulfilling the above criteria are also accepted if they are employed for port State control by the Authorities before 1 July 1996.

ANNEX 5

REQUIREMENTS FOR THE IDENTITY CARD FOR PORT STATE CONTROL INSPECTORS

The identity card shall contain at least the following information:

(a) name and issuing Authority;

(b) full name of the holder of the identity card;

(c) an up-to-date picture of the holder of the identity card;

(d) the signature of the holder of the identity card;

(e) a statement to the effect that the holder of the identity card is authorized to carry out inspections in accordance with the national legislation.

If the main language used on the identity card is not English, it must include a translation into that language.

The format of the identity card is left to the discretion of the competent Authorities.

(reverse side of Form B)

codes for actions taken

code

00 no action taken

10 deficiency rectified

12 all deficiencies rectified

15 rectify deficiency at next port

16 rectify deficiency within 14 days

17 master instructed to rectify deficiency before departure

20 ship delayed to rectify deficiencies

25 ship allowed to sail after delay

30 ship detained

35 detention raised (+ specify date)

40 next port informed

45 next port informed to re-detain

50 flag state/consul informed

55 flag state consulted

60 region state informed

70 classification society informed

80 temporary substitution of equipment

85 investigation of contravention of discharge provisions (MARPOL)

99 other (specify in clear text)

ANNEX 7

EXCHANGE OF MESSAGES BY REGION AUTHORITIES IN ACCORDANCE WITH SECTION 3.8 OF THE MEMORANDUM

1 In the case of deficiencies not fully rectified or only provisionally repaired, a message shall be sent to the competent Authority of the region State where the next port of call of the ship is situated.

2 The exchange of messages, as in paragraph 1 above, shall take effect through the use of the communication facilities incorporated in the information system as described in Annex 8 and/or by facsimile on the form contained in the Appendix to this Annex.

3 Each message as in paragraph 1 above, shall contain the following information:

*date:
*from (country):
*port:
*to (country):
*port:
*a statement reading deficiencies to be rectified:
*name of ship:
*IMO identification number (if available):
*type of ship:
*flag of ship:
*call sign:
*gross tonnage:
*year of build:
*issuing Authority of relevant certificate (s):
*date of departure:
*estimated place and time of arrival:

*nature of deficiencies:
*action taken:
*suggested action at next port of call:
*name and facsimile number of sender.

REPORT OF DEFICIENCIES NOT FULLY RECTIFIED OR ONLY PROVISIONALLY REPAIRED

in accordance with the Memorandum of Understanding on Port State Control in the Mediterranean Region

ANNEX 8

INFORMATION SYSTEM ON INSPECTIONS

1 To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have at the disposal of Authorities up to date information of inspection of an individual foreign flag ship in one of the other regional ports within the preceding six months.

2 For that purpose the Authorities undertake to provide an Information Centre, preferably by means of computerized data transmission, with information on ships inspected in the national ports, basing themselves on the information set out in Annex 6 to the Memorandum. The insertion of information into the inspection files should preferably be realized by means of direct, computerized input on a daily basis.

3 For the purpose of exchanging rapid information, the information system shall embrace a communication facility which allows for a direct, computerized exchange of messages between individual Authorities, including the notifications as referred to in section 3.8 of the Memorandum and the exchange of information on operational violations as referred to in Section 5 of the Memorandum.

4 The information as in paragraphs 2 and 3 above shall be handled in a standardized form and in accordance with standardization as set out in the guide for users of the information system provided by the Information Centre.

5 The Information Centre will organize the processing of information as in paragraph 2 above so as to ensure that inspection data are easily accessible both for purposes of consultation and updating in accordance with procedures as set out in the guide for users of the information system provided by the Information Centre.

6 The telex or facsimile facilities shall continue to be an alternative system of exchanging information to which a standardized form applies as set out in the Appendix to this Annex.

7 Information for administrative purpose, such as statistical information, will be provided by the Secretariat under the guidance of the Committee. This will be based on data provided by the Information Centre.

8 The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum takes effect.

Studies to monitor and, where necessary, to improve the quality of the system will be carried out on a continuous basis.

9 Whenever deficiencies are found which lead to the delay or detention of a ship, the port State Authority will send a copy of the report, as referred to in Annex 7 to the Memorandum, to the flag Administration concerned.

Appendix to Annex 8

TELEX OR FACSIMILE FORM FOR SHIPS INSPECTED

Report of inspection

1 name of issuing country

2 name of ship

3 flag of ship

4 type of ship

5 call sign

6 IMO number

7 gross tonnage

8 year of build

9 date of inspection (format: dd-mm-yy)

10 place of inspection

11 relevant certificates[1])
- a. title of certificate
- b. issuing authority
- c. date of issue and expiry (format: dd-mm-yy/dd-mm-yy)
- d. last intermediate survey (format: dd-mm-yy/authority/place)

12 deficiencies (yes/no)

13 ship delayed/detained (yes/no)

14 nature of deficiencies[2]) (format: def:def:def:)

15 actions taken[3]) (format: def:def:def:)

1) to be repeated for each relevant certificate.

2) including reference to the relevant Conventions if shown on the document left on board.

3) may alternatively be added to the particulars under 15 (nature of deficiencies) if the action taken has a direct relation to the corresponding deficiency. Deficiency and action(s) taken must be separated by a slant (/) (format: 15. def/at/at;def/at/at/at; 16. see 15).

ANNEX 9

QUALITATIVE CRITERIA FOR ADHERENCE TO THE MEMORANDUM IN ACCORDANCE WITH ADMINISTRATIVE PRIORITIES OF THE MEMORANDUM

Qualitative criteria

Maritime Authority of a State may adhere as a full member, provided that all of the following qualitative criteria have been met:

.1 such Maritime Authority shall explicitly subscribe to the commitments under the Memorandum with a view to contributing to the common endeavour to eliminate the operation of sub-standard ships;

.2 such Maritime Authority shall take all necesseary measures to encourage the ratification of all relevant instruments in force. Port State Control shall not be applied by such Maritime Authority to those instruments not yet ratified by the State;

.3 such Maritime Authorities shall have sufficient capacity, logistically and substantially, to appropriately enforce compliance with international maritime standards regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which shall include the employment of properly qualified inspectors acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 6.1 of the Memorandum;

.4 such Maritime Authority shall have sufficient capacity, logistically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitment, which shall include the employment of properly qualified port State control officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 7.1 of the Memorandum;

.5 such Maritime Authority shall, as of its effective date of membership, establish an on-line connection to the information system referred to in Annex 8;

.6 such Maritime Authority shall sign a financial agreement for paying its share in the operating cost of the Memorandum and shall, as of its effective date pay its financial contribution to the budget as approved by the Committee referred to in 7.1 of the Memorandum.

Assessment of compliance with the above conditions shall only be valid for each individual case and shall not create a precedent for any future cases, neither for the Authorities present under the Memorandum nor for the potential new signatory.

ANNEX 10

DRAFT FUNDING ARRANGEMENT FOR THE SECRETARIAT OF THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

The Secretariat, acting under guidance of the Committee and within the limits of the resources available to it, will:

— prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

— facilitate the exchange of information, carry out the procedures outlined in Annex 8 of the Memorandum and prepare reports as may be necessary for the purpose of the Memorandum;

— carry out such other work as may be necessary for to ensure the effective operation of the Memorandum.

On the basis of these tasks, an indication is given below of the services the Secretariat could provide for. The listed items only serve an illustrative purpose. Decisions on the tasks of the Secretariat will have to be taken by the Committee as meant in section 7 of the Memorandum.

The Secretariat* would:

— assist the Committee in organizing the meetings of the Committee;

— prepare papers for the meetings of the Committee as instructed by the Committee or on proposal of individual members;

— circulate papers among the Members of the Committee, IMO, ILO or any other institution or body as deemed necessary by the Committee;

— prepare draft summary records of the meetings of the Committee and any other paper that results from the meetings for approval by the Committee;

— present information on developments on port State control in international bodies, such as IMO, ILO and EC on request and on behalf of the Committee;

— supply information on the Memorandum of Understanding to other interested Authorities, bodies and organizations on request and on behalf of the Committee;

N.B.:*

— present statistical information on deficiencies found as well as analysis of the nature of the deficiencies;

— present statistical information on the inspections by the maritime Authorities;

which were previously included within the tasks of the Secretariat, should be included within the tasks of the Information Centre.

— deal administratively with requests of Authorities to accede according to the formal procedure for accession as requested by the Committee;

— provide each year before 30 September a budget proposal for the work of the Secretariat;

— each year before 31 March render an account on the previous year, including suggestions for payment or additional payment;

— inform the Committee on any other financial aspects of the Mediterranean Agreement of Understanding.

Protocol on the Control of Marine Transboundary Movements and Disposal of Hazardous Wastes and other Wastes to the Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution of 23 April 1978, Tehran, 1998

Done at Tehran 17 March 1998

Entered into force (not in force)

Depositary: Kuwait

Primary source citation: Copy of text provided by the United Nations

PREAMBLE

THE CONTRACTING STATES

BEING PARTIES to the Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution, adopted in 1978;

RECOGNIZING the danger posed to human health and the environment of the Protocol Area by the transboundary movements and disposal of hazardous wastes and other wastes, and that such movements and disposal transfer the detrimental effects of such wastes from the place of origin to transit States and States in which the wastes shall be disposed of or stored;

CONVINCED that the most effective way to reduce the risk to human health and the marine environment from the dangers arising from hazardous wastes and other wastes, including their transboundary movements, is to reduce and eliminate their generation, and, where this is not possible, to dispose of them at or near the place of origin in an environmentally sound manner;

FULLY RECOGNIZING that any Contracting State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory;

EMPHASIZING the importance of cooperation and coordination of action on a regional basis with the aim of controlling the transboundary movements of hazardous wastes and other wastes among themselves, and of restricting the importation of wastes from non-Contracting States for disposal;

TAKING INTO ACCOUNT Article 11 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989, and adhering to the spirit of that Convention;

MINDFUL of the provisions of the United Nations Convention on the Law of the Sea, 1982, the International Convention for the Prevention of Pollution from Ships and its Protocol, MARPOL 73/78, and the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and its 1996 Protocol;

ALSO TAKING INTO ACCOUNT relevant international agreements and actions, especially the 1992 Rio Declaration on Environment and Development and Agenda 21;

DESIROUS to strengthen the implementation of Articles IV and V, and in compliance with Article XIX of the Kuwait Regional Convention;

HAVE AGREED as follows:

Article 1

SCOPE OF THE PROTOCOL

1. This Protocol shall apply to the following wastes that are subject to transboundary movements to, from or through the Protocol Area and their disposal:

   a) Wastes that belong to any category contained in Annex I shall be hazardous wastes, unless they do not possess any of the characteristics contained in Annex III; and

   b) Wastes that belong to any category contained in Annex II shall be other wastes.

2. Wastes which, as a result of being radioactive, are subject to other international control systems, are excluded from the scope of this Protocol.

3. Wastes which derive from offshore installations, as covered by the Protocol concerning Marine Pollution resulting from Exploration and Exploitation of the Continental Shelf, 1989, are excluded from the scope of this Protocol.

4. Nothing in this protocol shall be construed as prohibiting or regulating the overland or, airborne transboundary movements and disposal of hazardous wastes and other wastes, which movements and disposals do not intrude upon the marine environment of the Protocol Area.

Article 2

DEFINITIONS

For the purposes of this Protocol:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites,

3. "Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided that at least two States are involved in the movement;

4. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

5. "State of import" means any State to which a transboundary movement of hazardous wastes or other wastes is planned or undertaken for the purpose of disposal therein, or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

6. "State of export" means any State from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;

7. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;

8. " States concerned " means States which are States of export, import or transit, whether or not Contracting States.

9. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;

10. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;

11. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

12. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes-,

13. "Disposal" means any operation specified in Annex IV to this Protocol-,

14. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;

15. "Person" means any natural or legal person;

16. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, aircushion vehicles, submersibles, floating craft and fixed or floating platforms;

17. "Protocol Area" means the area as defined in Article 3 of this Protocol;

18. "Contracting State" means any State which has become a party to this Protocol;

19. "Convention" means the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution, 1978;

20. "Organization" means the Regional Organization for the Protection of the Marine Environment established under Article XVI of the Convention;

21 "Council" means the organ of the Organization comprised of the Contracting States and established in accordance with Article XVI of the Convention;

22. "Competent Authority" means either the National Authority defined in Article I of the Convention, or the authority or authorities within the Government of a Contracting State, designated by the National Authority to be responsible for the fulfilment of the obligations and duties specified in the Protocol;

23. "Regional Technical Guidelines" means the guidelines for the environmentally sound management of hazardous wastes and other wastes, established pursuant to paragraph c of Article 14 of this Protocol;

24. "Regional reception facility" means any facility established on the Regional initiative to receive wastes and provide services to more than one Contracting State;

25. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 10 of this Protocol.

Article 3

AREA OF APPLICATION

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the Sea Area as defined in Article II, paragraph (a) of the Convention, together with the waters on the landward side of the baselines from which the breadth of the territorial sea of the Contracting States is measured and extending, in the case of watercourses, up to the freshwater limit and including intertidal zones, salt marshes, khores and sabkhas.

Article 4

GENERAL OBLIGATIONS

1. Contracting States shall ensure that the generation of hazardous wastes or other wastes is reduced to a minimum, taking into account social, technological and economic aspects.

2. Each Contracting State shall prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations.

3. Each Contracting State shall take appropriate measures to ensure that persons involved in the management of hazardous wastes and other wastes under its national jurisdiction take such steps as are necessary to prevent pollution due to hazardous wastes or other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment.

4. Each Contracting State shall require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards.

5. Each Contracting State shall require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

6. Contracting States shall ensure the effective control of transport and disposal facilities for hazardous wastes or other wastes including routine inspection and monitoring of environmental effects of these operations.

7. Each Contracting State shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere.

8. Contracting States shall cooperate in monitoring the effects of the management of hazardous wastes and other wastes on human health and the environment.

9. Contracting States shall cooperate in the development of programme of technical and other assistance related to the environmentally sound management of hazardous wastes and other wastes.

10. Contracting States shall consider that illegal traffic in hazardous wastes or other wastes is criminal.

11. Each Contracting State shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Protocol, including measures to prevent and punish conduct in contravention of the Protocol.

12. Each Contracting State shall designate its Competent Authority responsible for the fulfilment of the obligations and duties specified in the Protocol.

13. Contracting States exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform in writing other Contracting States directly or through the Organisation. The Contracting States shall prohibit or shall not permit the export of hazardous wastes and other wastes to

those Contracting States which have prohibited the import of such wastes.

14. Nothing in this Protocol shall affect in any way the sovereignty of Contracting States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which Contracting States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Article 5

PROHIBITION ON IMPORTATION

1. The importation of hazardous wastes or other wastes from non-Contracting States into or through the Protocol Area for the purposes of final disposal by any Contracting State is prohibited.

2. Contracting States may import hazardous wastes or other wastes for the purposes of resource recovery, recycling, reclamation, direct re-use or alternative uses from non-Contracting States through the Protocol Area, provided.

   a) The State of import has the facilities and technical capacity to manage the hazardous wastes and other wastes in an environmentally sound manner consistent with the Regional Technical Guidelines and such facilities are registered with the Organization in consultation with the Competent Authority of the State of import;

   b) The State of export lacks the technical capacity, the necessary facilities, or suitable disposal sites to dispose of the hazardous wastes and other wastes in an environmentally sound manner; and

   c) The transboundary movement of wastes is consistent with all relevant international agreements and national laws.

Article 6

PROHIBITION ON DISPOSAL

1. Disposal of hazardous wastes in the Protocol Area is prohibited unless they are destined for operations specified in Annex IV Section B.

2. In conformity with relevant international legal regimes all ships must provide adequate waste receiving facilities on-board for subsequent discharge of wastes to national/Regional reception facilities. Adequate national and/or Regional facilities shall be provided for the reception of such wastes and the wastes generated from ports. Contracting States may levy charges for services rendered at the reception facilities towards management of wastes, taking into consideration the national regulations and Regional Technical Guidelines.

3. Disposal of other wastes shall require a prior permit as granted by the Competent Authority of each Contracting State in accordance with the Regional Technical Guidelines.

Article 7

EXPORTATION OF HAZARDOUS WASTES AND OTHER WASTES TO NON-CONTRACTING STATES

The export of hazardous wastes and other wastes by a Contracting State to a non-Contracting State is allowed provided that:

a) The State of export notifies other States concerned, through the Organization, of its intent to export hazardous wastes or other wastes;

b) The State of import has the facilities and technical capacity to manage the hazardous wastes and other wastes in an environmentally sound manner; and

c) The transboundary movement is consistent with the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, other relevant international agreements, and national laws.

Article 8

TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTES AND OTHER WASTES BETWEEN CONTRACTING STATES.

1. Except as provided in paragraph 2 below, no Contracting State shall export hazardous wastes and other wastes to any other Contracting State unless:

   a) Regional Technical Guidelines have been adopted by the Council;

   b) The State of import has the facilities and technical capacity to manage the hazardous wastes and other wastes in an environmentally sound manner consistent with the Regional Technical Guidelines and such facilities are registered with the Organization in consultation with the Competent Authority of the State of import; and

   c) The State of export lacks the technical capacity, the necessary facilities or suitable disposal sites to dispose of the hazardous wastes and other wastes in accordance with the Regional Technical Guidelines.

2. Hazardous wastes or other wastes may be exported by a Contracting State to another Contracting State for operations specified in Annex IV section B.

3. The State of export shall notify in writing the Contracting States concerned, directly or through the Organization, of any proposed transboundary movement of hazardous wastes and other wastes. Such notification shall contain the declaration and information specified in Annex V A. Only one notification needs to be sent to each Contracting State concerned, with a copy to the Organization.

4. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the Competent Authorities of the States concerned, with a copy to the Organization.

5. Each State of transit which is a Contracting State shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within thirty days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Contracting State decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Contracting States of its decision. In this latter case, if no response is received by the State of export within thirty days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

6. A copy of the movement documents described in Annex V B should be sent to the Organization along with the notification.

7. Any transboundary movement of hazardous wastes and/ or other wastes shall be covered by insurance, bond

or other guarantee as may be required by the State of import or any State of transit.

8. Contracting States shall cooperate with a view to achieving the objectives of this Article, and shall endeavour to promote sound environmental management of hazardous wastes and other wastes in accordance with the Regional Technical Guidelines.

Article 9

THIRD PARTY USE OF PORT FACILITIES

Whenever port facilities within the Protocol Area are used for the export of hazardous wastes or other wastes, any Contracting State having national jurisdiction over the facilities, and which knowingly allowed or sanctioned such use of the facilities, shall be considered the State of export for purposes of this Protocol.

Article 10

ILLEGAL TRAFFIC

1. For the purposes of this Protocol, any transboundary movement of hazardous wastes and other wastes in contravention of this Protocol and of general provisions of international law shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

   a) taken back by the exporter or the generator or, if necessary, by itself into the State of export or, if impracticable,

   b) otherwise disposed of in accordance with the provisions of this Protocol,

   within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the States concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time the States concerned may agree. To this end, the States concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the States concerned shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmental sound manner, either in the State of export or the State of import or elsewhere as appropriate.

5. Each Contracting State shall enact appropriate national/domestic legislation to prevent and punish illegal traffic. The Contracting States shall co-operate with a view to achieving the objectives of this Article.

Article 11

DUTY TO RE-IMPORT

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Protocol, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within thirty days from the time that the importing State informed the State of export and the Organization. To this end, the State of export and the State of transit shall not hinder the return of those wastes to the State of export.

Article 12

ADOPTION OF OTHER RESTRICTIONS

Nothing in this Protocol shall prevent any Contracting State from imposing additional requirements that are consistent with the provisions of this Protocol, and are in accordance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and the rules of international law, in order to better protect human health and the environment.

Article 13

INSTITUTIONAL ARRANGEMENTS.

The Organization shall, *inter alia:*

1. Communicate with Competent Authorities in the Contracting States on the application of the Protocol;

2. Provide for training of national experts particularly for monitoring and enforcement of the provisions of the Protocol;

3. Arrange, upon request, for the provision of legal and technical assistance and advice to the Contracting States for the effective implementation of the Protocol;

4. Enhance the Regional capabilities and networks for the exchange of data and information of relevance to the Protocol;

5. Maintain a special Register, in consultation with the Competent Authorities, of disposal facilities in the contracting States which have adequate technical capacities to manage hazardous wastes and other wastes in an environmentally sound manner as specified in the Regional Technical Guidelines;

6. Establish a unified monitoring system for the transboundary movement of hazardous wastes and other wastes in the Protocol Area;

7. Facilitate the establishment of Regional reception facilities in close cooperation with Contracting States and relevant regional/international organizations;

8. Prepare reports based upon information received from Contracting States on the application of the Protocol and present them to the Council;

9. Establish and maintain liaison with relevant regional and international organizations, and appropriate private organizations outside the Contracting States, including generators and carriers of hazardous wastes and other wastes;

10. Establish and maintain liaison with the Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; and

11. Perform such other functions as may be assigned to it by the Council for the implementation of the Protocol.

Article 14

FUNCTIONS OF THE COUNCIL

The Council shall perform the following functions:

a) Review the implementation of the Protocol, and consider the efficacy of the measures adopted and the need for any other measures, including the addition of Annexes;

b) Adopt, review and amend as required any Annex to this Protocol;

c) Adopt, revise and amend the Regional Technical Guidelines; and

d) Discharge any other functions as may be appropriate for implementation of this Protocol.

Article 15

GENERAL PROVISIONS

1. The provisions of the Convention relating to any Protocol shall apply to this Protocol.

2. Procedures for amendments to Protocols and their Annexes adopted in accordance with Articles XX and XXI of the Convention shall apply to this Protocol.

3. The Rules of Procedure and Financial Rules adopted pursuant to Article XXII of the Convention, and amendments thereto, shall apply to this Protocol.

4. The Annexes shall form an integral part of this Protocol unless expressly provided otherwise therein.

Article 16

FINAL PROVISIONS

1. This Protocol shall be open for signature in Tehran, the Islamic Republic of Iran from 17 March to 14 June 1998 corresponding to 18 Thulqida 1418 to 19 Safar 1419 of Hejira by any Contracting State to the Convention.

2. This Protocol shall be subject to ratification, acceptance, approval or accession by the Contracting States to the Convention. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of Kuwait which shall assume the functions of the Depository in accordance with Article XXX of the Convention.

3. This Protocol shall enter into force on the ninetieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of, or accession to the Protocol by the States as referred to in paragraph 1 of this Article.

4. After the date of deposit of five instruments of ratification, acceptance or approval of, or accession to this Protocol, this Protocol shall enter into force with respect to any State as referred to in paragraph 1 of this Article on the nineteenth day following the date of deposit by that State of the instrument of ratification,

acceptance, approval or accession.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed this Protocol.

DONE AT TEHRAN this seventeenth day of March, in the year one thousand nine hundred and ninety-eight corresponding to eighteenth day of Thulqida in the year one thousand four hundred and eighteen of Hejira in the Arabic, English and Farsi languages, the texts being equally authentic.

Memorandum of Understanding on Port State Control for the Indian Ocean Region, Pretoria, 1998

Done at Pretoria 5 June 1998

Primary source citation: Copy of text provided by the United Nations

ANNEX I

The Maritime Authorities* of :

Australia
Bangladesh
Djibouti
Eritrea
Ethiopia
India
Iran
Kenya
Maldives
Mauritius
Mozambique
Myanmar
Oman
Seychelles
South Africa
Sri Lanka
Sudan
Tanzania
Yemen

Hereinafter referred to as **"the Authorities"**

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organisation (IMO) and the International Labour Organisation (ILO) and mindful especially of IMO Resolution A682(17), concerning Regional Co-operation in the Control of Ships and discharges.

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

* **Maritime Authorities** are the national maritime administrations designated for the implementation of this Memorandum (see Annex 1).

Have reached the following understanding:

Section 1 Commitments

1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum, and take all necessary steps to ratify/accede instruments relevant to the purposes of this Memorandum.

1.2 Each Authority will establish and maintain an effective system of Port State Control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.

1.3 Each Authority will achieve, within a period of 3 years from the coming into effect of the Memorandum an annual total inspections corresponding to at least 10 % of the estimated number of individual foreign merchant ships, hereinafter referred to as "ships", which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to Section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the target inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.

1.4 Each Authority will consult, co-operate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant instruments

2.1 For the purposes of the Memorandum "relevant instruments" are the following instruments:

- The International Convention on Load Lines, 1966;
- The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- The Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
- The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78);
- The Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- The International Convention on Tonnage Measurement of Ships, 1969;
- The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147),

together with the Protocols and amendments to these conventions and related codes of mandatory status as and when they enter into force.

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147). Each Authority will apply the instructions in Annex 1 for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the "relevant instrument" for that Authority.

2.4 When inspecting a ship flying the flag of a State not party to a Convention or to a "relevant instrument" as amended for the purposes of port State control, the Authorities which are party to such Convention or "relevant instrument", as amended, shall ensure that the treatment given to such ship and its crew is not more favourable than that given to ships flying the flag of a State which is party to that Convention or "relevant instrument".

2.5 In the case of non-convention sized ships, the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Section 5 of Annex 2.

Section 3 Inspection procedures, rectification and detention*

3.1 In implementing the Memorandum, the Authorities will carry out inspections which will consist of at least a visit on board a ship in order to check the validity of the certificates and documents and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation and hygienic condition on board, meet the provisions of the relevant instruments.

3.2.1 Whenever there are clear grounds for believing that the condition of a ship or of its equipments or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.

3.2.2 Clear grounds exist when the Port State Control Officer (PSCO) finds evidence, which in his professional judgement warrants a more detailed inspection of ship, equipment or crew. The Authorities will regard as clear ground, inter alia; those set out in Annex 3.

3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

3.2.4 The relevant procedures and guidelines for the inspection of ships specified in Annex 2 shall also be applied.

3.3 In selecting ships for inspection, the Authorities shall give priority to the following ships :

- Ships visiting a port of a State, the Authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more;
- Ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
- Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
- Ships whose statutory certificates on the ship's construction and equipment, have not been issued in accordance with the relevant instruments;
- Ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ship's particulars, the ship's movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;
- Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

3.4 The Authorities will seek to avoid inspecting ships, which have been inspected within the previous 6 months by other Authorities unless there are clear grounds for inspection. These procedures

* Reference is made to IMO Assembly resolution A.789(19) on Procedures for port State control as may be amended by IMO.

are not applicable to ships listed under clause 3.3, which may be inspected whenever the Authority deems appropriate.

3.5.1 Inspections will be carried out only by a person, duly authorised by its Authority to carry out port State inspections and responsible to that Authority, who fulfils the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 4.

3.5.2 The PSCO carrying out Port State Control may be assisted by a person with the required expertise when such expertise cannot be provided by his Authority.

3.5.3 The PSCO carrying out Port State Control and the person assisting him shall have no personal or commercial interest either in the port of inspection or in the ships inspected, nor shall the PSCO be employed or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

3.5.4 Each PSCO shall carry a personal document in the form of an identity card issued by his authority indicating that the PSCO is authorised to carry out inspections. Reference is made to Annex 5.

3.6.1 On completion of an inspection the master of ship shall be provided by the PSCO with a document in the form specified in Annex 6 to this Memorandum, giving the results of the inspection and details of any decision taken by the PSCO and of the corrective action to be taken by the master, owner or operator.

3.6.2 The Authorities shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.

3.6.3 In the case of deficiencies which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in [relation to which] the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8.1 below.

3.6.4 When exercising his professional judgement as to whether or not a ship should be detained, the PSCO shall be guided by the criteria set out in Annex 2.

3.7 In the event that a ship is detained, the Authority shall immediately notify the flag State concerned and its Consul or, in his absence, its nearest diplomatic representative of the action taken. Where relevant, the organisation responsible for the issue of the certificate(s) shall also be informed.

3.8.1 Where deficiencies referred to in 3.6.3 cannot be remedied in the port of inspection, the Authority may allow the ship to proceed to another port, or the nearest repair yard subject to any appropriate conditions determined by that Authority with a view to ensuring that the ship can so proceed without danger to safety, health or the environment. In such circumstances, the Authority will notify the competent Authority of the State where the next port of call or the repair yard is situated, the parties mentioned in 3.7 and any other Authority as appropriate. Notification to Authorities will be made in accordance with Annex 7. The Authority receiving such notification will inform the notifying Authority of action taken.

3.8.2 The Authorities will take measures to ensure that ships referred to in 3.8.1 which either proceed to sea without complying with the conditions determined by the Authority which detained the ship or which do not call into the agreed port or yard to undertake repairs, shall be refused access to any port within this Memorandum until the owner or operator and the Flag State notify the Authority of the State where the ship was found defective or the Authority which receives the vessel that the ship complies with all applicable requirements of the relevant instruments. In the latter case, the receiving Authority will notify all other Authorities of such compliance.

3.8.3 Notwithstanding provisions contained in 3.8.2 above, in exceptional circumstances, recognised by the Authority, access to a specific port may be permitted to minimise the risk of loss of life or of pollution.

3.9 The provisions of Section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organisations concerning notification and reporting procedures relating to port State control.

3.10 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

3.11 In case the master, owner or agent of the ship notifies the port State control Authorities prior to, upon arrival or whilst the vessel is in the port, of any damage, breakdown or deficiency to the ship, its machinery and equipment, which is intended to be repaired or rectified before the ship sails from that port, the detention should be issued only if deficiencies justifying detentions are found after the master has given notification that the ship was ready for inspections. The same procedure applies when the port State control Authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.

3.12 In exceptional circumstances, when a ship on its way to a specified repair yard needs to call at a port for temporary repairs for safety reasons, it may be allowed into that port. All commercial operations are forbidden, except the unloading of its cargo or bunkers if required for safety reasons. The ship may be allowed to proceed to the specified repair yard only if the flag State of the ship has issued statutory certificates to the ship restricting their validity to that specific voyage, and the Port State is satisfied that such ship shall not pose undue risk to safety of ship, or to the environment or cause undue hardship to the crew.

3.13 The owner or the operator of a ship will have the right of appeal against a detention to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.

3.14 Should an inspection reveal deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the first shall be covered by the shipowner or the operator. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Section 4 Provision of information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 8.

4.2 The Authorities will supply the following information to the Secretariat:

a) Number of PSCOs working on their behalf on port State inspections;

b) Number of individual ships entering their ports in a representative year prior to the Memorandum;

c) Fees for inspections, if any.

This information will be updated annually.

Section 5 Operational violations

The Authorities will upon the request of another Authority endeavour to secure evidence relating to suspected violations of the requirements on operation matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. In the cases referred to in this article, the requesting Authority should state that the Flag State of the ship has already been notified of the alleged violation.

Section 6 Training programmes and seminars

The Authorities will endeavour to establish appropriate training programmes and seminars.

Section 7 Organisation

7.1 A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organisation and of the International Labour Organisation will be invited to participate without vote in the work of the Committee. Representatives of the maritime Authorities of other States of the Region and, subject to the provisions of Section 10, any other Organisation or Authority which the Committee may deem appropriate, may be accorded the status of observer without vote.

7.2 The Committee will meet once a year and at such other times as it may decide.

7.3 The Committee will :

- carry out the specific tasks assigned to it under the Memorandum;
- promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
- develop and review guidelines for carrying out inspections under the Memorandum;
- develop and review procedures, including those related to the exchange of information;
- keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- adopt the budget and work out the contributions of every Party to the Memorandum.

7.4 Except where provided otherwise (in section 9), the Committee will take its decisions acting on simple majority.

7.5 A Secretariat will be established in accordance with the following principles:

a) the Secretariat will be a non-profit making body located in Goa, India;

b) the Secretariat will be totally independent from any maritime administration or organisation;

c) the Secretariat will be governed by and be accountable to the Committee;

d) the Secretariat will have a bank account into which all dues and contributions are made;

e) the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee;

f) the Secretariat will have a financial year commencing on 1st January.

7.6 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will :

- prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

- facilitate the exchange of information, carry out the procedures outlined in Annex 10 and prepare reports as may be necessary for the purposes of the Memorandum;

- carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Financial Mechanism

The costs of running the Secretariat and the Information Centre will be financed by :

- the financial contribution of Parties to the Memorandum; and

- gifts and subscriptions, if any, by donor countries or organisations.

Each Party to the Memorandum undertakes to settle its financial contribution to the costs for running the Secretariat and the Information Centre, in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.

9.2 In the case of proposed amendments to sections of the Memorandum, the following procedure will apply:

a) The proposed amendment will be submitted through the Secretariat for consideration at least six weeks before the Committee meets.

b) Amendments will be adopted by a two-thirds majority of the representatives of the Authorities participating in the Memorandum. Each Authority is entitled to only one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance.

c) An amendment so adopted will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption.

d) An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

9.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply :

a) the proposed amendment will be submitted through the Secretariat for consideration by the Authorities;

b) the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply;

c) the amendment will take effect 60 days after it has been accepted or at the end of any period determined unanimously by the Authorities.

Section 10 Administrative provisions

10.1 The Memorandum is without prejudice to the rights and obligations under any international Instrument.

10.2 A maritime authority of a State of the Region may accede to the Memorandum provided it complies with the criteria specified in Annex 9.

10.3 Authorities meeting the requirements specified in Annex 9 may become parties of the Memorandum by:

a) signature without any reservations as to acceptance, or

b) signature subject to acceptance, followed by acceptance.

The Memorandum remains open for signature, at the Headquarters of the Secretariat from 5 June 1998 to 22 January 1999.

10.4 Acceptance or accession will be effected by a written communication by the Authority to the Secretariat.

10.5 The Secretariat will inform the Maritime Authorities who have signed the Memorandum of any signature or written communication, or of acceptance or accession and of the date on which such an event has taken place.

10.6 This Memorandum will enter into force for each Authority 90 days from the date of acceptance or accession.

10.7 Any maritime authority or organisation wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.

10.8 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

10.9 The English text is the official version of the Memorandum.

MARITIME AUTHORITIES SIGNING THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL FOR THE INDIAN OCEAN REGION

This Memorandum is signed at Pretoria, South Africa on the fifth day of June, one thousand nine hundred and ninety-eight, by the following Authorities:

Australia

Bangladesh

Djibouti

Eritrea

Ethiopia

India

Iran

Kenya

Maldives

Mauritius

Mozambique

Seychelles

South Africa

Sri Lanka

Sudan

Tanzania

Yemen

SIGNED AS WITNESS TO THE ABOVE SIGNATURES:

International Labour Organization	International Maritime Organization	Port ManagementAssociation of Eastern and Southern Africa
Chairman	Vice-Chairman	Rapporteur

Annex 1

LIST OF MARITIME ADMINISTRATIONS 'MARITIME AUTHORITIES

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Annex 2

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF INTERNATIONAL SHIPPING

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Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in section 3.1 of the Memorandum refer to the relevant provisions of the following:

a) Procedures for Port State Control (IMO Resolution A.787(19));

b) Principles of Safe Manning (IMO resolution A. 481(XII) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and guidelines for the Application of Principles of Safe Manning (Annex 2)).

c) The provisions of the International Maritime Dangerous Goods Code.

d) ILO publication "Inspection of labour conditions on board Ship: Guidelines for procedure"

e) The procedures laid down in the Annex to the Memorandum.

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the PSCO shall take into consideration the results of the detailed inspection carried out in accordance with section 3. The PSCO shall exercise his professional judgement in determining whether to detain the ship until the deficiencies are corrected or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of ILO Convention No.147, special procedures shall be observed set out in sections 3 and 4 of this Annex.

1.3 Application of the clause of "no more favourable treatment"

In applying Section 2.4 of the Memorandum the following shall be observed. Ships entitled to fly the flag of a State which is not a party to a relevant instrument listed in Section 2 and thus not provided with certificates representing prima facie evidence of satisfactory conditions on board, shall receive a detailed inspection. In making such an inspection the PSCO should follow the same guidelines as provided for ships to which the relevant instruments are applicable.

The conditions of and on such a ship and its equipment and the certification of the crew, its number and composition shall be compatible with the aims of the provisions of a relevant instrument otherwise the ship shall be subject to such restrictions as are necessary to obtain a comparable level of safety.

Section 2 The safety of the ships as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78

2.1 More detailed inspection

In so far as there are clear grounds for a more detailed inspection relating to the provisions of the SOLAS Convention, the Protocol thereto, the Load Lines Convention, COLREG 72 and MARPOL 73/78, the PSCO when carrying out this inspection shall take into account the considerations given in "Procedures for Port State Control" (IMO Resolution A.787(19)), the provisions of the International Maritime Dangerous Goods Code and the provisions of Section 4 with regard to living and working conditions on board ships.

Section 3 Minimum manning standards and certification

3.1 Introduction

The guiding principle for Port State inspection of the manning of a foreign ship should be to establish conformity with the Flag State's safe manning requirements. Where this is in doubt the flag State should be consulted. Such safe manning requirements stem from :

a) the International Convention for the Safety of Life at Sea (SOLAS) 1974

b) the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention 147) which inter alia refers to the ILO Convention No.53 Articles 3 and 4;

c) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended;

d) The Contents of Minimum Safe Manning Document (IMO Resolution A.481(XII) Annex 1);

e) The Guidelines for the Application of Principles of Safe Manning (IMO Resolution A.481(XII).

Detention as port State action shall only be taken on the grounds laid down in the relevant instruments.

3.2 Manning Control

3.2.1 If a ship is manned in accordance with a safe manning document or equivalent document issued by the flag State, the PSCO should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and in the IMO Guidelines for the Application of Principles of Safe Manning. In this last case, the PSCO should act according to the procedures defined in paragraph 3.2.3.

3.2.2 If the actual crew number or composition does not conform to the manning document, the port State should request the flag State for advice whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible.

The reply, if any, from the flag State should be confirmed by telex/telefax. If the actual crew number and composition is not brought into accordance with the safe manning document or the flag State does not advise that the ship could sail, the ship may be considered for detention after the criteria set out in paragraph 3.4 of this Annex have been taken into proper account.

3.2.3 If the ship does not carry a safe manning document or equivalent, the port State should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible. In case the actual number or composition of the crew does not conform to the specifications received from the flag State, the procedure as contained in paragraph 3.2.2 applies. If the flag State does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1. The ship shall only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4. In any such case the minimum standards to be applied shall be no more stringent than those applied to ships flying the flag of the port State. The lack of a safe manning document shall be reported as a deficiency.

3.3 Certification Control

3.3.1 General certification control upon ships should be carried out in accordance with the procedures stipulated in Article X and in Regulation I/4 of the STCW Convention.

3.3.2 Certification control upon ships engaged in the carriage of liquid hazardous cargo in bulk should be more stringent. The PSCO should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having had the appropriate training and experience.

No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified. With regard to appropriate training, reference is made to chapter V of the STCW Convention, to resolutions 10, 11 and 12 adopted by the International Convention on Training, Certification and Watchkeeping of Seafarers 1978 and to the relevant sections of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

a) length and nature of the intended voyage or service;

b) whether or not the deficiency poses a danger to ship, persons on board or the environment;

c) whether or not appropriate rest periods of the crew can be observed;

d) size and type of ship and equipment provided;

e) nature of cargo.

The absence of a Deck or Engineer Officer required to be certificated should not be grounds for detention whether the absence is in accordance with any exceptional provisions approved by the flag State.

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No.147)

4.1 Inspections on board ships under the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention No.147) shall relate to :

a) the Minimum Age Convention, 1973 (No.138); or the Minimum Age (Sea) Convention (Revised, 1936 (No.58)), or the Minimum Age (Sea) Convention, 1920 (No.7);

b) the Medical Examination (Seafarers) Convention, 1946 (No.73);

c) the Prevention of Accidents (Seafarers) Convention, 1970 (No.134) (Articles 4 and 7);

d) the Accommodation of Crews Convention (Revised), 1949 (No.92);

e) the Food and Catering (Ship's Crews) Convention, 1946 (No.68) (Article 5);

f) the Officers' Competency Certificates Convention, 1936 (No.53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in Section 3 of this Annex. In the exercise of control functions the PSCO, in the light of his general impression of the ship, will have to use his professional judgement to decide whether the ship shall receive a more detailed inspection. All complaints regarding conditions on board should be investigated thoroughly and action taken as deemed necessary by the circumstances. He shall also use his professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions, and may if necessary detain the ship until appropriate corrective action is taken.

4.2 In so far as there are clear grounds for a more detailed inspection relating to the provisions of ILO Convention No.147, the PSCO when carrying out an inspection shall take into account the previous paragraph in this section and the considerations given in the ILO publication "Inspection of Labour Conditions on board Ship: guidelines for procedure".

4.3 The Conventions relevant in the framework of the provisions of paragraph 4.4 are:

a) the Seamen's Articles of Agreement Convention, 1926 (No.22);

b) the Repatriation of Seamen Convention, 1926 (No.23);

c) the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No.55); or the Sickness Insurance (Sea) Convention, 1936 (No.56); or the Medical Care and Sickness Benefits Convention, 1969 (No.130);

d) the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87);

e) the Right to Organise and Collective Bargaining Convention, 1949 (No.98).

4.4 If the PSCO receives a complaint to the effect that the standards laid down in the Conventions listed in paragraph 4.3 are not met, the matter should be reported to the nearest maritime, consular or diplomatic representation of the flag State for further action. If deemed necessary, the appropriate Authority may prepare a report to the flag State, if possible with evidence, with a copy to the ILO.

4.5 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship : Guidelines for procedure" which deal with:

a) control procedures for national flag ships;

b) vocational training;

c) officer's certificates of competency;

d hours of work and manning;

should not be considered as relevant provisions for the inspection of ships but as information to PSCOs only.

Section 5 Guidelines for Surveyors to be Observed in the Inspection of Ships of Non-Convention Size and Ships of Traditional Build

1 Ships of non-convention size

1.1 The following is a guide for the application of Section 2.5 in respect of cargo ships of non convention sized ships

1.2 To the extent a relevant instrument is not applicable to a ship below 500 gross tonnage, the PSCO shall be guided by the provisions of the "Safety Regulations for Non-convention Sized Ships"*.

2 Ships of traditional build

2.1 The following is a guide for the application of Section 2.5 in respect of ships of traditional build

* as developed and approved by the Committee at its first session.

2.2 To the extent a relevant instrument is not applicable to a ship of traditional build, the PSCO's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment, the PSCO shall take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

2.3 In the exercise of his functions under paragraph 2.2, the PSCO should be guided by any certificates and other documents issued by the flag State. The PSCO will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgement in deciding whether and in what respects the ship shall receive a more detailed inspection, taking into account the factors mentioned in pa, the PSCO shall, to the extent he deems necessary, pay attention to the items listed in paragraph 2.4. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

2.4 Items of general importance

2.4.1 Items related to the conditions of assignment of load lines:

- weathertight (or watertight as the case may be) integrity of exposed decks;
- hatches and closing appliances;
- weathertight closures to openings in superstructures;
- freeing a arrangements;
- side outlets;
- ventilators and air pipes;
- stability information.

2.4.2 Other items related to the safety of life at sea:

- life-saving appliances;
- fire-fighting appliances;
- general structural conditions (i.e. hull, deck, hatch covers etc.);
- main machinery and electrical installations;
- navigational equipment including radio installations.

2.4.3 Items related to the prevention of pollution from ships:

- means for the control of discharge of oil and oily mixtures, e.g. oily water separating or other equivalent means (tank(s)) for retaining oil, oily mixtures, oil residues;
- presence of oil in the engine room bilges.

2.5 In the case of deficiencies which are considered to safety. Health or the environment the PSCO shall take such action, which may include detention as may be necessary, having regard to the factors mentioned in paragraph 2.2, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

Annex 3

FACTS REGARDED AS "CLEAR GROUNDS"

The Authorities will regard as "clear grounds" inter alia the following:

.1 a report or notification by another Authority;

.2 report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded. The identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned;

.3 other indications which may warrant a more detailed or an expanded inspection, having regard in particular to Annex 2.

For the purposes of control on compliance with on-board operational requirements, specific "clear grounds" are the following:

.1 evidence of operational shortcomings revealed during port State control procedures in accordance with SOLAS 74, MARPOL 73/78 and STCW 1978;

.2 evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines;

.3 involvement of the ship in incidents due to failure to comply with operational requirements;

.4 evidence, from the witnessing of a fire and abandon ship drill, that the crew are not familiar with essential procedures;

.5 absence of an up-to-date muster list;

.6 indications that the relevant crew members are unable to communicate appropriately with each other, or with other persons on board, or that the ship is unable to communicate with the shore-based authorities either in a common language or in the language of those authorities.

Annex 4

QUALIFICATION CRITERIA FOR PORT STATE CONTROL OFFICERS

1 In pursuance of the provisions of 3.5 of the Memorandum. The port State control Officers must be properly qualified and authorised by the Authority to carry out port State control inspections.

2 A properly qualified port State control Officer must have completed a minimum of one year's service as a flag State surveyor dealing with surveys and certification in accordance with the relevant instruments and be in possession of:

.1 a certificate of competency as master, enabling that person to take command of a ship as specified in STCW, as amended, or

.2 a certificate of competency as chief engineer, enabling that person to take up that task on board a ship as specified in STCW, as amended, or

.3 has passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least 5 years, or

.4 has an equivalent qualification as determined by the Administration.

The port State control Officers mentioned under 1 and 2 above must have served for a period of not less than five years at sea as officer in the deck or engine department.

Alternatively, a port State control Officer is deemed to be properly qualified if that person:

.1 holds a relevant university degree or an equivalent training, and

.2 has been trained and qualified at a school for ship safety PSCOs, and

.3 has served at least 2 years as a flag State surveyor dealing with surveys and certification in accordance with the relevant instruments.

.4 has the ability to communicate orally and in writing with seafarers in the language most commonly spoken at sea.

.5 has appropriate knowledge of the provisions of the relevant instruments and of the relevant procedures on port State control.

Port State control officers not fulfilling the above criteria are also accepted if they are employed for port State control by an Authority before the Memorandum comes into force for such Authority.

Annex 5

REQUIREMENTS FOR THE IDENTITY CARD FOR PORT STATE CONTROL OFFICERS

The identity card shall contain at least the following information:

a) name of issuing Authority;

b) full name of the holder of the identity card;

c) an up-to-date picture of the holder of the identity card;

d) the signature of the holder of the identity card;

e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with national legislations.

If the main language used on the identity card is not English, it must include a translation into that language.

The format of the identity card is left to the discretion of the competent Authorities.

Annex 6

REPORT OF INSPECTION IN ACCORDANCE WITH INDIAN OCEAN MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

Form A

Reporting Authority	Copy to:	Master
Address		Head Office
Telephone		PSCO
Telefax	If ship is detained, copy to:	Flag State
		Recognised Organisation, if applicable

1.reporting authority of ---------- 2.Name of ship ----------
3.Flag of ship ---------- 4. Type of ship ---------- 5. Call sign ----------
6.IMO Number ---------- 7. Gross tonnage ---------- 8.Deadweight(where aapplicable) ----------
9. Year of build ---------- 10. Date of inspection ---------- 11. Place of inspection ----------
12 Classification Society ---------- 13. Date of release from detention ----------
14. Particulars of owners/operators (delete as appropriate) ----------
---

15. name and signature of the Master to certify that the information under 14 is correct:
name ---------- signature ----------
16.relevant certificate(s)

a. title	b. issuing authority	c. dates of issue and validity
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12		

d. information on last intermediate or annual survey

date	Surveying authority	Place
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12		

17 expanded inspection — Yes/No
18 deficiences — Yes/No (see attached Form B)
19 ship detained — Yes/No ***)
20 detainable deficiencies — Yes/No
21 supporting documentation — Yes/No (see Annex)
District office ---------- Name ----------
(duly authorised PSCO of reporting authority)

Telephone
Telefax

This report must be retained on board for a period of two years and must be available for consultation by Port State Control officers at all times.

*) This inspection report has been issued solely for the purpose of informing the Master and other port States that an inspection by the port state mentioned in the heading, has taken place. This inspection report cannot be construed as seaworthiness certificate in excess of the certificate the ship is required to carry.
**) To be completed in the event of a detention
***) Masters, shipowner and/or operator are advised that detailed information on a detention may be subject to publication.

REPORT OF INSPECTION IN ACCORDANCE WITH INDIAN OCEAN MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

Form B

Reporting Authority	Copy to:	Master
Address		Head Office
Telephone		PSCO
Telefax	If ship is detained, copy to:	Flag State
		Recognised Organisation, if applicable

2. Name of ship 6. IMO Number
10. Date of inspection 11. Place of inspection

22 Code	Nature of deficiency 1)	Convention references 2)	23 action taken 3)

name ----------
(duly authorised PSCO of reporting authority)

1) This inspection was not a full survey and deficiencies listed may not be exhaustive. In the event of a detention, it is recommended that a full survey is carried out and all deficiencies are rectified before an application for re-inspection is made.

2) To be completed in the event of a detention.

3) Codes for action taken include i.a.: ship detained/released, flag state informed, classification society informed, next port informed (for codes see reverse side of copy)

(Reverse side of Form B)

Codes for action taken

Code	
00	no action taken
10	deficiency rectified
15	rectify deficiency at next port
16	rectify deficiency within 14 days
17	master instructed to rectify deficiency before departure
30	ship detained
35	detention raised
36	ship allowed to sail
40	next port informed
45	next port informed to re-detain
50	flag administration/consul/flag maritime authority informed
55	flag administration/maritime authority consulted
60	region authority informed
70	classification society informed
80	temporary substitution of equipment
85	investigation of contravention of discharge provisions (MARPOL)
95	letter of warning issued
96	letter of warning withdrawn
99	other (specify in clear text)

Annex 7

EXCHANGE OF MESSAGES BY REGION AUTHORITIES IN ACCORDANCE WITH SECTION 3.8 OF THE MEMORANDUM

1 In case of deficiencies not fully rectified or provisionally repaired, a message shall be sent to the competent Authority of the region State where the next port of call of the ship is situated.

2 The exchange of messages as in paragraph 1 above, shall take effect through the use of communication facilities incorporated in the information system as described in Annex 8 and/or by facsimile on the form contained in the Appendix to this Annex.

3 Each message as in paragraph 1 above, shall contain the following information:

- Date:
- from (country):
- port:
- to (country):
- port:
- a statement reading deficiencies:
- name of ship:
- IMO identification number (if available):
- official number
- type of ship:
- flag of ship:
- call sign:
- gross tonnage:
- year of build:
- issuing Authority(ies) of relevant certificate(s):
- date of departure:
- estimated place and time of arrival:
- nature of deficiencies:
- action taken:
- suggested action at next port of call:
- name and facsimile number of sender.

REPORT OF DEFICIENCIES
NOT FULLY RECTIFIED OR ONLY PROVISIONALLY REPAIRED

In accordance with the Memorandum of Understanding on Port State Control in the Indian Ocean Region

Annex 8

INFORMATION SYSTEM ON INSPECTIONS

1 To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have at the disposal of Authorities up to date information of inspection of an individual foreign flag ship in one of the other regional ports within the preceding six months.

2 For that purpose the Authorities undertake to provide an Information Centre, preferably by means of computerized data transmission, with information on ships inspected in the national ports, basing themselves on the information set out in Annex 6 to the Memorandum. The insertion of information into the inspection files should preferably be realized by means of direct, computerized input on a daily basis.

3 For the purpose of exchanging rapid information, the information system shall embrace a communication facility which allows for a direct, computerized exchange of messages between individual Authorities, including the notifications as referred to in Section 3.8 of the Memorandum and the exchange of information on operational violations as referred to in Section 5 of the Memorandum.

4 The information as in paragraphs 2 and 3 above shall be handled in a standardized form and in accordance with standardization as set out in the guide for users of the information system provided by the Information Centre.

5 The Information Centre will organise the processing of information as in paragraph 2 above so as to ensure that inspection data are easily accessible both for purposes of consultation and updating in accordance with procedures as set out in the guide for users of the information system provided by the Information Centre.

6 The telex or facsimile facilities shall continue to be an alternative system of exchanging information to which a standardized form applies as set out in the Appendix to this Annex.

7 Information for administrative purpose, such as statistical information, will be provided by the Secretariat under the guidance of the Committee. This will be based on data provided by the Information Centre.

8 The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum takes effect. Studies to monitor and, where necessary, to improve the quality of the system will be carried out on a continuous basis.

9 Whenever deficiencies are found which lead to the detention of a ship, the Port State Authority will send a copy of the report, as referred to in Annex 3 to the Memorandum, to the flag Administration concerned.

Appendix to Annex 8

TELEX OR FACSIMILE FORM FOR SHIPS INSPECTED

Report of inspection

1	name of issuing country	
2	name of ship	
3	flag of ship	
4	type of ship	
5	call sign	
6	IMO number	
7	Gross tonnage	
8	Year of build	
9	Date of inspection	(format: dd-mm-yy)
10	Place of inspection	
11	Relevant certificates*	
	a) title of certificate	
	b) issuing authority	
	c) date of issue and expiry	(format : dd-mm-yy/dd-mm-yy)
	d) last intermediate survey	(format : dd-mm-yy/authority/place)
1	deficiencies	(yes/no)
2	ship delayed/detained	(yes/no)
3	nature of deficiencies**	(format : def:def:def:)
4	actions taken#	(format : def:def:def:)

* *to be repeated for each relevant certificate.*

** *including reference to the relevant Conventions if shown on the document left on board.*

\# *may alternatively be added to the particularfs under 15 (nature of deficiencies) if the action taken has a direct relation to the corresponding deficiency. Deficiency and action(s) taken must be separated by a slat (/) (format: 15. Def/at/at;def/at/at/at; 16. See 15).*

Annex 9

QUALITATIVE CRITERIA FOR ADHERENCE TO THE MEMORANDUM IN ACCORDANCE WITH ADMINISTRATIVE PRIORITIES OF THE MEMORANDUM

Qualitative criteria

A Maritime Authority of a State may adhere as a full member, provided that all of the following qualitative criteria have been met:

1 Such Maritime Authority shall explicitly subscribe to the commitments under the Memorandum with a view to contributing to the common endeavour to eliminate the operation of sub-standard ships;

2 Such Maritime Authority shall take all necessary measures to encourage the ratification of all relevant instruments in force.

3 Such Maritime Authorities shall have sufficient capacity, logistically and substantially, to appropriately enforce compliance with international maritime standards regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which shall include the employment of properly qualified PSCOs acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in section 7.1 of the Memorandum.

4 Such Maritime Authority shall have sufficient capacity, logistically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitment, which shall include the employment of properly qualified port State Control officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in Section 7.1 of the Memorandum.

5 Such Maritime Authority shall, as of its effective date of membership, establish an on-line connection to the information system referred to in Annex 8.

6 Such Maritime Authority shall sign a financial agreement for paying its share in the operating cost of the Memorandum and shall, as of its effective date pay its financial contribution to the budget as approved by the Committee referred to in 7.1 of the Memorandum.

Assessment of compliance with the above conditions shall only be valid for each individual case and shall not create a precedent for any future cases, neither for the Authorities present under the Memorandum nor for the potential new signatory.

Annex 10

FUNCTIONS OF THE SECRETARIAT OF THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

On the basis of the tasks specified in paragraph 7.6 of the text of the Memorandum, an indication is given below of the services the Secretariat could provide for. The listed items only serve an illustrative pupose. Decisions on the tasks of the Secretariat will have to be taken by the Committee as reflected in section 7 of the Memorandum.

The Secretariat would:

- assist the Committee in organising the meetings of the Committee;
- prepare papers for the meetings of the Committee as instructed by the Committee or on proposal of individual meetings;
- circulate papers among the Members of the committee, IMO, ILO or any other institution or body as deemed necessary by the Committee;
- prepare draft summary records of the meetings of the Committee and any other paper that results from the meetings for approval by the Committee;
- present information on developments on port State control in international bodies, such as IMO and ILO on request and on behalf of the Committee;
- supply information on the Memorandum of Understanding to other interested Authorities, bodies and organisations on request and on behalf of the Committee;
- deal administratively with requests of Authorities to accede according to the formal procedure for accession as requested by the Committee;
- provide each year before 31st of August a budget proposal for the work of the Secretariat;
- each year before 31st of March render an account on the previous year, including suggestions for payment or additional payment;
- inform the Committee on any other financial aspects of the Indian Ocean Memorandum of Understanding.

Protocol to the Convention on Long-Range Transboundary Air Pollution of 13 November 1979 on Heavy Metals, Aarhus, 1998

Done at Aarhus 24 June 1998

Entered into force (not in force)

Depositary : Secretary General of the United Nations

Primary Source Citation: Copy of text provided by the United Nations

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The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,

Concerned that emissions of certain heavy metals are transported across national boundaries and may cause damage to ecosystems of environmental and economic importance and may have harmful effects on human health,

Considering that combustion and industrial processes are the predominant anthropogenic sources of emissions of heavy metals into the atmosphere,

Acknowledging that heavy metals are natural constituents of the Earth's crust and that many heavy metals in certain forms and appropriate concentrations are essential to life,

Taking into consideration existing scientific and technical data on the emissions, geochemical processes, atmospheric transport and effects on human health and the environment of heavy metals, as well as on abatement techniques and costs,

Aware that techniques and management practices are available to reduce air pollution caused by the emissions of heavy metals,

Recognizing that countries in the region of the United Nations Economic Commission for Europe (UN/ECE) have different economic conditions, and that in certain countries the economies are in transition,

Resolved to take measures to anticipate, prevent or minimize emissions of certain heavy metals and their related compounds, taking into account the application of the precautionary approach, as set forth in principle 15 of the Rio Declaration on Environment and Development,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Mindful that measures to control emissions of heavy metals would also contribute to the protection of the environment and human health in areas outside the UN/ECE region, including the Arctic and international waters,

Noting that abating the emissions of specific heavy metals may provide additional benefits for the abatement of emissions of other pollutants,

Aware that further and more effective action to control and reduce emissions of certain heavy metals may be needed and that, for example, effects-based studies may provide a basis for further action,

Noting the important contribution of the private and non-governmental sectors to knowledge of the effects associated with heavy metals, available alternatives and abatement techniques, and their role in assisting in the reduction of emissions of heavy metals,

Bearing in mind the activities related to the control of heavy metals at the national level and in international forums,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of the present Protocol,

1. "Convention" means the Convention on Long-range Transboundary Air Pollution, adopted in Geneva on 13 November 1979;

2. "EMEP" means the Cooperative Programme for Monitoring and Evaluation of Long-range Transmission of Air Pollutants in Europe;

3. "Executive Body" means the Executive Body for the Convention constituted under article 10, paragraph 1, of the Convention;

4. "Commission" means the United Nations Economic Commission for Europe;

5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol;

6. "Geographical scope of EMEP" means the area defined in article 1, paragraph 4, of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;

7. "Heavy metals" means those metals or, in some cases, metalloids which are stable and have a density greater than 4.5 g/cm^3 and their compounds;

8. "Emission" means a release from a point or diffuse source into the atmosphere;

9. "Stationary source" means any fixed building, structure, facility, installation, or equipment that emits or may emit a heavy metal listed in annex I directly or indirectly into the atmosphere;

10. "New stationary source" means any stationary source of which the construction or substantial modification is commenced after the expiry of two years from the date of entry into force of: (i) this Protocol; or (ii) an amendment to annex I or II, where the stationary source becomes subject to the provisions of this Protocol only by virtue of that amendment. It shall be a matter for the competent national authorities to decide whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification;

11. "Major stationary source category" means any stationary source category that is listed in annex II and that contributes at least one per cent to a Party's total emissions from stationary sources of a heavy metal listed in annex I for the reference year specified in accordance with annex I.

Article 2

OBJECTIVE

The objective of the present Protocol is to control emissions of heavy metals caused by anthropogenic activities that are subject to long-range transboundary atmospheric transport and are likely to have significant adverse effects on human health or the environment, in accordance with the provisions of the following articles.

Article 3

BASIC OBLIGATIONS

1. Each Party shall reduce its total annual emissions into the atmosphere of each of the heavy metals listed in annex I from the level of the emission in the reference year set in accordance with that annex by taking effective measures, appropriate to its particular circumstances.

2. Each Party shall, no later than the timescales specified in annex IV, apply:

(a) The best available techniques, taking into consideration annex III, to each new stationary source within a major stationary source category for which annex III identifies best available techniques;

(b) The limit values specified in annex V to each new stationary source within a major stationary source category. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission levels;

(c) The best available techniques, taking into consideration annex III, to each existing stationary source within a major stationary source category for which annex III identifies best available techniques. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(d) The limit values specified in annex V to each existing stationary source within a major stationary source category, insofar as this is technically and economically feasible. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions.

3. Each Party shall apply product control measures in accordance with the conditions and timescales specified in annex VI.

4. Each Party should consider applying additional product management measures, taking into consideration annex VII.

5. Each Party shall develop and maintain emission inventories for the heavy metals listed in annex I, for those Parties within the geographical scope of EMEP, using as a minimum the methodologies specified by the Steering Body of EMEP, and, for those Parties outside the geographical scope of EMEP, using as guidance the methodologies developed through the work plan of the Executive Body.

6. A Party that, after applying paragraphs 2 and 3 above, cannot achieve the requirements of paragraph 1 above for a heavy metal listed in annex I, shall be exempted from its obligations in paragraph 1 above for that heavy metal.

7. Any Party whose total land area is greater than 6,000,000 km^2 shall be exempted from its obligations in paragraphs 2 (b), (c), and (d) above, if it can demonstrate that, no later than eight years after the date of entry

into force of the present Protocol, it will have reduced its total annual emissions of each of the heavy metals listed in annex I from the source categories specified in annex II by at least 50 per cent from the level of emissions from these categories in the reference year specified in accordance with annex I. A Party that intends to act in accordance with this paragraph shall so specify upon signature of, or accession to, the present Protocol.

Article 4

EXCHANGE OF INFORMATION AND TECHNOLOGY

1. The Parties shall, in a manner consistent with their laws, regulations and practices, facilitate the exchange of technologies and techniques designed to reduce emissions of heavy metals, including but not limited to exchanges that encourage the development of product management measures and the application of best available techniques, in particular by promoting:

(a) The commercial exchange of available technology;

(b) Direct industrial contacts and cooperation, including joint ventures;

(c) The exchange of information and experience; and

(d) The provision of technical assistance.

2. In promoting the activities specified in paragraph 1 above, the Parties shall create favourable conditions by facilitating contacts and cooperation among appropriate organizations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance.

Article 5

STRATEGIES, POLICIES, PROGRAMMES AND MEASURES

1. Each Party shall develop, without undue delay, strategies, policies and programmes to discharge its obligations under the present Protocol.

2. A Party may, in addition:

(a) Apply economic instruments to encourage the adoption of cost-effective approaches to the reduction of heavy metal emissions;

(b) Develop government/industry covenants and voluntary agreements;

(c) Encourage the more efficient use of resources and raw materials;

(d) Encourage the use of less polluting energy sources;

(e) Take measures to develop and introduce less polluting transport systems;

(f) Take measures to phase out certain heavy metal emitting processes where substitute processes are available on an industrial scale;

(g) Take measures to develop and employ cleaner processes for the prevention and control of pollution.

3. The Parties may take more stringent measures than those required by the present Protocol.

Article 6

RESEARCH, DEVELOPMENT AND MONITORING

The Parties shall encourage research, development, monitoring and cooperation, primarily focusing on the heavy metals listed in annex I, related, but not limited, to:

(a) Emissions, long-range transport and deposition levels and their modelling, existing levels in the biotic and abiotic environment, the formulation of procedures for harmonizing relevant methodologies;

(b) Pollutant pathways and inventories in representative ecosystems;

(c) Relevant effects on human health and the environment, including quantification of those effects;

(d) Best available techniques and practices and emission control techniques currently employed by the Parties or under development;

(e) Collection, recycling and, if necessary, disposal of products or wastes containing one or more heavy metals;

(f) Methodologies permitting consideration of socio-economic factors in the evaluation of alternative control strategies;

(g) An effects-based approach which integrates appropriate information, including information obtained under subparagraphs (a) to (f) above, on measured or modelled environmental levels, pathways, and effects on human health and the environment, for the purpose of formulating future optimized control strategies which also take into account economic and technological factors;

(h) Alternatives to the use of heavy metals in products listed in annexes VI and VII;

(i) Gathering information on levels of heavy metals in certain products, on the potential for emissions of those metals to occur during the manufacture, processing, distribution in commerce, use, and disposal of the product, and on techniques to reduce such emissions.

Article 7

REPORTING

1. Subject to its laws governing the confidentiality of commercial information:

(a) Each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties meeting within the Executive Body, information on the measures that it has taken to implement the present Protocol;

(b) Each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of emissions of the heavy metals listed in annex I, using as a minimum the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. Parties in areas outside the geographical scope of EMEP shall make available similar information to the Executive Body if requested to do so. In addition, each Party shall, as appropriate, collect and report relevant information relating to its emissions of other heavy metals, taking into account the guidance on the methodologies and the temporal and spatial resolution of the Steering Body of EMEP and the Executive Body.

2. The information to be reported in accordance with paragraph 1 (a) above shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports.

3. In good time before each annual session of the Executive Body, EMEP shall provide information on the long-range transport and deposition of heavy metals.

Article 8

CALCULATIONS

EMEP shall, using appropriate models and measurements and in good time before each annual session of the Executive Body, provide to the Executive Body calculations of transboundary fluxes and depositions of heavy metals within the geographical scope of EMEP. In areas outside the geographical scope of EMEP, models appropriate to the particular circumstances of Parties to the Convention shall be used.

Article 9

COMPLIANCE

Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by decision 1997/2 of the Executive Body at its fifteenth session shall carry out such reviews and report to the Parties meeting within the Executive Body in accordance with the terms of the annex to that decision, including any amendments thereto.

Article 10

REVIEWS BY THE PARTIES AT SESSIONS OF THE EXECUTIVE BODY

1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2 (a), of the Convention, review the information supplied by the Parties, EMEP and other subsidiary bodies and the reports of the Implementation Committee referred to in article 9 of the present Protocol.

2. The Parties shall, at sessions of the Executive Body, keep under review the progress made towards meeting the obligations set out in the present Protocol.

3. The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol.

(a) Such reviews will take into account the best available scientific information on the effects of the deposition of heavy metals, assessments of technological developments, and changing economic conditions;

(b) Such reviews will, in the light of the research, development, monitoring and cooperation undertaken under the present Protocol:

(i) Evaluate progress towards meeting the objective of the present Protocol;

(ii) Evaluate whether additional emission reductions beyond the levels required by this Protocol are warranted to reduce further the adverse effects on human health or the environment; and

(iii) Take into account the extent to which a satisfactory basis exists for the application of an effects-based approach;

(c) The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body.

4. The Parties shall, based on the conclusion of the reviews referred to in paragraph 3 above and as soon as practicable after completion of the review, develop a work plan on further steps to reduce emissions into the atmosphere of the heavy metals listed in annex I.

Article 11

SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The Parties to the dispute shall inform the Executive Body of their dispute.

2. When ratifying, accepting, approving or acceding to the present Protocol, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body, as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the Parties to the dispute agree otherwise.

5. Except in a case where the Parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the Parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of equal numbers of members appointed by each Party concerned or, where the Parties in conciliation share the same interest, by the group sharing that interest, and a chairman chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the Parties shall consider in good faith.

Article 12

ANNEXES

The annexes to the present Protocol shall form an integral part of the Protocol. Annexes III and VII are recommendatory in character.

Article 13

AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the present Protocol.

2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties meeting within the Executive Body shall discuss the proposed amendments at its next session, provided that the proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the present Protocol and to annexes I, II, IV, V and VI shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to annexes III and VII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of ninety days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least sixteen Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to annex III or VII shall so notify the Depositary in writing within ninety days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

6. In the case of a proposal to amend annex I, VI or VII by adding a heavy metal, a product control measure or a product or product group to the present Protocol:

(a) The proposer shall provide the Executive Body with the information specified in Executive Body decision 1998/1, including any amendments thereto; and

(b) The Parties shall evaluate the proposal in accordance with the procedures set forth in Executive Body decision 1998/1, including any amendments thereto.

7. Any decision to amend Executive Body decision 1998/1 shall be taken by consensus of the Parties meeting within the Executive Body and shall take effect sixty days after the date of adoption.

Article 14

SIGNATURE

1. The present Protocol shall be open for signature at Aarhus (Denmark) from 24 to 25 June 1998, then at United Nations Headquarters in New York until 21 December 1998 by States members of the Commission as well as States having consultative status with the Commission pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

Article 15

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 21 December 1998 by the States and organizations that meet the requirements of article 14, paragraph 1.

Article 16

DEPOSITARY

The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of Depositary.

Article 17

ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited with the Depositary.

2. For each State and organization referred to in article 14, paragraph 1, which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 18

WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 19

AUTHENTIC TEXTS

The original of the present Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

Done at Aarhus (Denmark), this twenty-fourth day of June, one thousand nine hundred and ninety-eight.

Annex I

HEAVY METALS REFERRED TO IN ARTICLE 3, PARAGRAPH 1, AND THE REFERENCE YEAR FOR THE OBLIGATION

Heavy metal	Reference year
Cadmium (Cd)	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Lead (Pb)	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Mercury (Hg)	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.

Annex II

STATIONARY SOURCE CATEGORIES

I. INTRODUCTION

1. Installations or parts of installations for research, development and the testing of new products and processes are not covered by this annex.

2. The threshold values given below generally refer to production capacities or output. Where one operator carries out several activities falling under the same subheading at the same installation or the same site, the capacities of such activities are added together.

II. LIST OF CATEGORIES

Category	Description of the category
1	Combustion installations with a net rated thermal input exceeding 50 MW.
2	Metal ore (including sulphide ore) or concentrate roasting or sintering installations with a capacity exceeding 150 tonnes of sinter per day for ferrous ore or concentrate, and 30 tonnes of sinter per day for the roasting of copper, lead or zinc, or any gold and mercury ore treatment.
3	Installations for the production of pig-iron or steel (primary or secondary fusion, including electric arc furnaces) including continuous casting, with a capacity exceeding 2.5 tonnes per hour.
4	Ferrous metal foundries with a production capacity exceeding 20 tonnes per day.
5	Installations for the production of copper, lead and zinc from ore, concentrates or secondary raw materials by metallurgical processes with a capacity exceeding 30 tonnes of metal per day for primary installations and 15 tonnes of metal per day for secondary installations, or for any primary production of mercury.
6	Installations for the smelting (refining, foundry casting, etc.), including the alloying, of copper, lead and zinc, including recovered products, with a melting capacity exceeding 4 tonnes per day for lead or 20 tonnes per day for copper and zinc.
7	Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day.
8	Installations for the manufacture of glass using lead in the process with a melting capacity exceeding 20 tonnes per day.
9	Installations for chlor-alkali production by electrolysis using the mercury cell process.
10	Installations for the incineration of hazardous or medical waste with a capacity exceeding 1 tonne per hour, or for the co-incineration of hazardous or medical waste specified in accordance with national legislation.
11	Installations for the incineration of municipal waste with a capacity exceeding 3 tonnes per hour, or for the co-incineration of municipal waste specified in accordance with national legislation.

Annex III

BEST AVAILABLE TECHNIQUES FOR CONTROLLING EMISSIONS OF HEAVY METALS AND THEIR COMPOUNDS FROM THE SOURCE CATEGORIES LISTED IN ANNEX II

I. INTRODUCTION

1. This annex aims to provide Parties with guidance on identifying best available techniques for stationary sources to enable them to meet the obligations of the Protocol.

2. "Best available techniques" (BAT) means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and their impact on the environment as a whole:

- "Techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

- "Available" techniques means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the territory of the Party in question, as long as they are reasonably accessible to the operator;

- "Best" means most effective in achieving a high general level of protection of the environment as a whole.

In determining the best available techniques, special consideration should be given, generally or in specific cases, to the factors below, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention:

- The use of low-waste technology;

- The use of less hazardous substances;

- The furthering of recovery and recycling of substances generated and used in the process and of waste;

- Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

- Technological advances and changes in scientific knowledge and understanding;

- The nature, effects and volume of the emissions concerned;

- The commissioning dates for new or existing installations;

- The time needed to introduce the best available technique;

- The consumption and nature of raw materials (including water) used in the process and its energy efficiency;

- The need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;

- The need to prevent accidents and to minimize their consequences for the environment.

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions.

3. The information regarding emission control performance and costs is based on official documentation of the Executive Body and its subsidiary bodies, in particular documents received and reviewed by the Task Force on Heavy Metal Emissions and the Ad Hoc Preparatory Working Group on Heavy Metals. Furthermore, other international information on best available techniques for emission control has been taken into consideration (e.g. the European Community's technical notes on BAT, the PARCOM recommendations for BAT, and information provided directly by experts).

4. Experience with new products and new plants incorporating low-emission techniques, as well as with the retrofitting of existing plants, is growing continuously; this annex may, therefore, need amending and updating.

5. The annex lists a number of measures spanning a range of costs and efficiencies. The choice of measures for any particular case will depend on, and may be limited by, a number of factors, such as economic circumstances, technological infrastructure, any existing emission control device, safety, energy consumption and whether the source is a new or existing one.

6. This annex takes into account the emissions of cadmium, lead and mercury and their compounds, in solid (particle-bound) and/or gaseous form. Speciation of these compounds is, in general, not considered here. Nevertheless, the efficiency of emission control devices with regard to the physical properties of the heavy metal, especially in the case of mercury, has been taken into account.

7. Emission values expressed as mg/m^3 refer to standard conditions (volume at 273.15 K, 101.3 kPa, dry gas) not corrected for oxygen content unless otherwise specified, and are calculated in accordance with draft CEN (Comité européen de normalisation) and, in some cases, national sampling and monitoring techniques.

II. GENERAL OPTIONS FOR REDUCING EMISSIONS OF HEAVY METALS AND THEIR COMPOUNDS

8. There are several possibilities for controlling or preventing heavy metal emissions. Emission reduction measures focus on add-on technologies and process modifications (including maintenance and operating control). The following measures, which may be implemented depending on the wider technical and/or economic conditions, are available:

(a) Application of low-emission process technologies, in particular in new installations;

(b) Off-gas cleaning (secondary reduction measures) with filters, scrubbers, absorbers, etc.;

(c) Change or preparation of raw materials, fuels and/or other feed materials (e.g. use of raw materials with low heavy metal content);

(d) Best management practices such as good housekeeping, preventive maintenance programmes, or primary measures such as the enclosure of dust-creating units;

(e) Appropriate environmental management techniques for the use and disposal of certain products containing Cd, Pb, and/or Hg.

9. It is necessary to monitor abatement procedures to ensure that appropriate control measures and practices are properly implemented and achieve an effective emission reduction. Monitoring abatement procedures will include:

(a) Developing an inventory of those reduction measures identified above that have already been implemented;

(b) Comparing actual reductions in Cd, Pb and Hg emissions with the objectives of the Protocol;

(c) Characterizing quantified emissions of Cd, Pb and Hg from relevant sources with appropriate tech-

niques;

(d) Regulatory authorities periodically auditing abatement measures to ensure their continued efficient operation.

10. Emission reduction measures should be cost-efficient. Cost-efficient strategy considerations should be based on total costs per year per unit abated (including capital and operating costs). Emission reduction costs should also be considered with respect to the overall process.

III. CONTROL TECHNIQUES

11. The major categories of available control techniques for Cd, Pb and Hg emission abatement are primary measures such as raw material and/or fuel substitution and low-emission process technologies, and secondary measures such as fugitive emission control and off-gas cleaning. Sector-specific techniques are specified in chapter IV.

12. The data on efficiency are derived from operating experience and are considered to reflect the capabilities of current installations. The overall efficiency of flue gas and fugitive emission reductions depends to a great extent on the evacuation performance of the gas and dust collectors (e.g. suction hoods). Capture/collection efficiencies of over 99 per cent have been demonstrated. In particular cases experience has shown that control measures are able to reduce overall emissions by 90 per cent or more.

13. In the case of particle-bound emissions of Cd, Pb and Hg, the metals can be captured by dust-cleaning devices. Typical dust concentrations after gas cleaning with selected techniques are given in table 1. Most of these measures have generally been applied across sectors. The minimum expected performance of selected techniques for capturing gaseous mercury is outlined in table 2. The application of these measures depends on the specific processes and is most relevant if concentrations of mercury in the flue gas are high.

Table 1: Performance of dust-cleaning devices expressed as hourly average dust concentrations

	Dust concentrations after cleaning (mg/m^3)
Fabric filters	< 10
Fabric filters, membrane type	< 1
Dry electrostatic precipitators	< 50
Wet electrostatic precipitators	< 50
High-efficiency scrubbers	< 50

Note: Medium- and low-pressure scrubbers and cyclones generally show lower dust removal efficiencies.

Table 2: Minimum expected performance of mercury separators expressed as hourly average mercury concentrations

	Mercury content after cleaning (mg/m^3)
Selenium filter	< 0.01
Selenium scrubber	< 0.2
Carbon filter	< 0.01
Carbon injection + dust separator	< 0.05
Odda Norzink chloride process	< 0.1
Lead sulphide process	< 0.05
Bolkem (Thiosulphate) process	< 0.1

14. Care should be taken to ensure that these control techniques do not create other environmental problems. The choice of a specific process because of its low emission into the air should be avoided if it worsens the total environmental impact of the heavy metals' discharge, e.g. due to more water pollution from liquid effluents. The fate of captured dust resulting from improved gas cleaning must also be taken into consideration. A negative environmental impact from the handling of such wastes will reduce the gain from lower process dust and fume emissions into the air.

15. Emission reduction measures can focus on process techniques as well as on off-gas cleaning. The two are not independent of each other; the choice of a specific process might exclude some gas-cleaning methods.

16. The choice of a control technique will depend on such parameters as the pollutant concentration and/or speciation in the raw gas, the gas volume flow, the gas temperature, and others. Therefore, the fields of application may overlap; in that case, the most appropriate technique must be selected according to case-specific conditions.

17. Adequate measures to reduce stack gas emissions in various sectors are described below. Fugitive emissions have to be taken into account. Dust emission control associated with the discharging, handling, and stockpiling of raw materials or by-products, although not relevant to long-range transport, may be important for the local environment. The emissions can be reduced by moving these activities to completely enclosed buildings, which may be equipped with ventilation and dedusting facilities, spray systems or other suitable controls. When stockpiling in unroofed areas, the material surface should be otherwise protected against wind entrainment. Stockpiling areas and roads should be kept clean.

18. The investment/cost figures listed in the tables have been collected from various sources and are highly case-specific. They are expressed in 1990 US$ (US$ 1 (1990) = ECU 0.8 (1990)). They depend on such factors as plant capacity, removal efficiency and raw gas concentration, type of technology, and the choice of new installations as opposed to retrofitting.

IV. SECTORS

19. This chapter contains a table per relevant sector with the main emission sources, control measures based on the best available techniques, their specific reduction efficiency and the related costs, where available. Unless stated otherwise, the reduction efficiencies in the tables refer to direct stack gas emissions.

Combustion of fossil fuels in utility and industrial boilers (annex II, category 1)

20. The combustion of coal in utility and industrial boilers is a major source of anthropogenic mercury emissions. The heavy metal content is normally several orders of magnitude higher in coal than in oil or natural gas.

21. Improved energy conversion efficiency and energy conservation measures will result in a decline in the emissions of heavy metals because of reduced fuel requirements. Combusting natural gas or alternative fuels with a low heavy metal content instead of coal would also result in a significant reduction in heavy metal emissions such as mercury. Integrated gasification combined-cycle (IGCC) power plant technology is a new plant technology with a low-emission potential.

22. With the exception of mercury, heavy metals are emitted in solid form in association with fly-ash particles. Different coal combustion technologies show different magnitudes of fly-ash generation: grate-firing boilers 20-40%; fluidized-bed combustion 15%; dry bottom boilers (pulverized coal combustion) 70-100% of total ash. The heavy metal content in the small particle size fraction of the fly-ash has been found to be higher.

23. Beneficiation, e.g. "washing" or "bio-treatment", of coal reduces the heavy metal content associated with the inorganic matter in the coal. However, the degree of heavy metal removal with this technology varies widely.

24. A total dust removal of more than 99.5% can be obtained with electrostatic precipitators (ESP) or fabric filters (FF), achieving dust concentrations of about 20 mg/m^3 in many cases. With the exception of mercury, heavy metal emissions can be reduced by at least 90-99%, the lower figure for the more easily volatilized elements. Low filter temperature helps to reduce the gaseous mercury off-gas content.

25. The application of techniques to reduce emissions of nitrogen oxides, sulphur dioxide and particulates from the flue gas can also remove heavy metals. Possible cross media impact should be avoided by appropriate waste water treatment.

26. Using the techniques mentioned above, mercury removal efficiencies vary extensively from plant to plant, as seen in table 3. Research is ongoing to develop mercury removal techniques, but until such techniques are available on an industrial scale, no best available technique is identified for the specific purpose of removing mercury.

Table 3: Control measures, reduction efficiencies and costs for fossil-fuel combustion emissions

Emission source	Control measure(s)	Reduction efficiency (%)	Abatement costs
Combustion of fuel oil	Switch from fuel oil to gas	Cd, Pb: 100; Hg: 70 - 80	Highly case-specific
Combustion of coal	Switch from coal to fuels with lower heavy metals emissions	Dust: 70 - 100	Highly case-specific
	ESP (cold-side)	Cd, Pb: > 90; Hg: 10 - 40	Specific investment US$ 5-10/m^3 waste gas per hour (> 200,000 m^3/h)
	Wet flue-gas desulphurization (FGD) [a/]	Cd, Pb: > 90; Hg: 10 - 90 [b/]	..
	Fabric filters (FF)	Cd: > 95; Pb: > 99; Hg: 10 - 60	Specific investment US$ 8-15/m^3 waste gas per hour (> 200,000 m^3/h)

[a/] Hg removal efficiencies increase with the proportion of ionic mercury. High-dust selective catalytic reduction (SCR) installations facilitate Hg(II) formation.

[b/] This is primarily for SO_2 reduction. Reduction in heavy metal emissions is a side benefit. (Specific investment US$ 60-250/kW_{el}.)

Primary iron and steel industry (annex II, category 2)

27. This section deals with emissions from sinter plants, pellet plants, blast furnaces, and steelworks with a basic oxygen furnace (BOF). Emissions of Cd, Pb and Hg occur in association with particulates. The content of the heavy metals of concern in the emitted dust depends on the composition of the raw materials and the types of alloying metals added in steel-making. The most relevant emission reduction measures are outlined in table 4. Fabric filters should be used whenever possible; if conditions make this impossible, electrostatic precipitators and/or high-efficiency scrubbers may be used.

28. When using BAT in the primary iron and steel industry, the total specific emission of dust directly related to the process can be reduced to the following levels:

Sinter plants	40 - 120 g/Mg
Pellet plants	40 g/Mg
Blast furnace	35 - 50 g/Mg
BOF	35 - 70 g/Mg.

29. Purification of gases using fabric filters will reduce the dust content to less than 20 mg/m^3, whereas electrostatic precipitators and scrubbers will reduce the dust content to 50 mg/m^3 (as an hourly average). However, there are many applications of fabric filters in the primary iron and steel industry that can achieve much lower values.

Table 4: Emission sources, control measures, dust reduction efficiencies and costs for the primary iron and steel industry

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs US$)
Sinter plants	Emission optimized sintering	ca. 50	. .
	Scrubbers and ESP	> 90	. .
	Fabric filters	> 99	. .
Pellet plants	ESP + lime reactor + fabric filters	> 99	. .
	Scrubbers	> 95	. .
Blast furnaces Blast furnace gas cleaning	FF / ESP	> 99	ESP: 0.24-1/Mg pig-iron
	Wet scrubbers	> 99	. .
	Wet ESP	> 99	. .
BOF	Primary dedusting: wet separator/ESP/FF	> 99	Dry ESP: 2.25/Mg steel
	Secondary dedusting: dry ESP/FF	> 97	FF: 0.26/Mg steel
Fugitive emissions	Closed conveyor belts, enclosure, wetting stored feedstock, cleaning of roads	80 - 99	. .

30. Direct reduction and direct smelting are under development and may reduce the need for sinter plants and blast furnaces in the future. The application of these technologies depends on the ore characteristics and requires the resulting product to be processed in an electric arc furnace, which should be equipped with appropriate controls.

Secondary iron and steel industry (annex II, category 3)

31. It is very important to capture all the emissions efficiently. That is possible by installing doghouses or movable hoods or by total building evacuation. The captured emissions must be cleaned. For all dust-emitting processes in the secondary iron and steel industry, dedusting in fabric filters, which reduces the dust content to less than 20 mg/m^3, shall be considered as BAT. When BAT is used also for minimizing fugitive emissions, the specific dust emission (including fugitive emission directly related to the process) will not exceed the range of 0.1 to 0.35 kg/Mg steel. There are many examples of clean gas dust content below 10 mg/m^3 when fabric filters are used. The specific dust emission in such cases is normally below 0.1 kg/Mg.

32. For the melting of scrap, two different types of furnace are in use: open-hearth furnaces and electric arc furnaces (EAF) where open-hearth furnaces are about to be phased out.

33. The content of the heavy metals of concern in the emitted dust depends on the composition of the iron and steel scrap and the types of alloying metals added in steel-making. Measurements at EAF have shown that 95% of emitted mercury and 25% of cadmium emissions occur as vapour. The most relevant dust emission reduction measures are outlined in table 5.

Table 5: Emission sources, control measures, dust reduction efficiencies and costs for the secondary iron and steel industry

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs US$)
EAF	ESP FF	> 99 > 99.5	. . FF: 24/Mg steel

Iron foundries (annex II, category 4)

34. It is very important to capture all the emissions efficiently. That is possible by installing doghouses or movable hoods or by total building evacuation. The captured emissions must be cleaned. In iron foundries, cupola furnaces, electric arc furnaces and induction furnaces are operated. Direct particulate and gaseous heavy metal emissions are especially associated with melting and sometimes, to a small extent, with pouring. Fugitive emissions arise from raw material handling, melting, pouring and fettling. The most relevant emission reduction measures are outlined in table 6 with their achievable reduction efficiencies and costs, where available. These measures can reduce dust concentrations to 20 mg/m^3, or less.

35. The iron foundry industry comprises a very wide range of process sites. For existing smaller installations, the measures listed may not be BAT if they are not economically viable.

Table 6: Emission sources, control measures, dust reduction efficiencies and costs for iron foundries

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs US$)
EAF	ESP FF	> 99 > 99.5	.. FF: 24/Mg iron
Induction furnace	FF/dry absorption + FF	> 99	..
Cold blast cupola	Below-the-door take-off: FF	> 98	..
	Above-the-door take-off: FF + pre-dedusting FF + chemisorption iron	 > 97 > 99	 8-12/Mg iron 45/Mg iron
Hot blast cupola	FF + pre-dedusting Disintegrator/ venturi scrubber	> 99 > 97	23/Mg iron ..

Primary and secondary non-ferrous metal industry (annex II, categories 5 and 6)

36. This section deals with emissions and emission control of Cd, Pb and Hg in the primary and secondary production of non-ferrous metals like lead, copper, zinc, tin and nickel. Due to the large number of different raw materials used and the various processes applied, nearly all kinds of heavy metals and heavy metal compounds might be emitted from this sector. Given the heavy metals of concern in this annex, the production of copper, lead and zinc are particularly relevant.

37. Mercury ores and concentrates are initially processed by crushing, and sometimes screening. Ore beneficiation techniques are not used extensively, although flotation has been used at some facilities processing low-grade ore. The crushed ore is then heated in either retorts, at small operations, or furnaces, at large operations, to the temperatures at which mercuric sulphide sublimates. The resulting mercury vapour is condensed in a cooling system and collected as mercury metal. Soot from the condensers and settling tanks should be removed, treated with lime and returned to the retort or furnace.

38. For efficient recovery of mercury the following techniques can be used:

- Measures to reduce dust generation during mining and stockpiling, including minimizing the size of stockpiles;
- Indirect heating of the furnace;
- Keeping the ore as dry as possible;
- Bringing the gas temperature entering the condenser to only 10 to 20°C above the dew point;
- Keeping the outlet temperature as low as possible; and
- Passing reaction gases through a post-condensation scrubber and/or a selenium filter.

Dust formation can be kept down by indirect heating, separate processing of fine grain classes of ore, and control of ore water content. Dust should be removed from the hot reaction gas before it enters the mercury condensation unit with cyclones and/or electrostatic precipitators.

39. For gold production by amalgamation, similar strategies as for mercury can be applied. Gold is also produced using techniques other than amalgamation, and these are considered to be the preferred option for new plants.

40. Non-ferrous metals are mainly produced from sulphitic ores. For technical and product quality reasons, the off-gas must go through a thorough dedusting (< 3 mg/m^3) and could also require additional mercury removal before being fed to an SO_3 contact plant, thereby also minimizing heavy metal emissions.

41. Fabric filters should be used when appropriate. A dust content of less than 10 mg/m^3 can be obtained. The dust of all pyrometallurgical production should be recycled in-plant or off-site, while protecting occupational health.

42. For primary lead production, first experiences indicate that there are interesting new direct smelting reduction technologies without sintering of the concentrates. These processes are examples of a new generation of direct autogenous lead smelting technologies which pollute less and consume less energy.

43. Secondary lead is mainly produced from used car and truck batteries, which are dismantled before being charged to the smelting furnace. This BAT should include one melting operation in a short rotary furnace or shaft furnace. Oxy-fuel burners can reduce waste gas volume and flue dust production by 60%. Cleaning the flue-gas with fabric filters makes it possible to achieve dust concentration levels of 5 mg/m^3.

44. Primary zinc production is carried out by means of roast-leach electrowin technology. Pressure leaching may be an alternative to roasting and may be considered as a BAT for new plants depending on the concentrate characteristics. Emissions from pyrometallurgical zinc production in Imperial Smelting (IS) furnaces can be minimized by using a double bell furnace top and cleaning with high-efficiency scrubbers, efficient evacuation and cleaning of gases from slag and lead casting, and thorough cleaning (< 10 mg/m^3) of the CO-rich furnace off-gases.

45. To recover zinc from oxidized residues these are processed in an IS furnace. Very low-grade residues and flue dust (e.g. from the steel industry) are first treated in rotary furnaces (Waelz-furnaces) in which a high-content zinc oxide is manufactured. Metallic materials are recycled through melting in either induction furnaces or furnaces with direct or indirect heating by natural gas or liquid fuels or in vertical New Jersey retorts, in which a large variety of oxidic and metallic secondary material can be recycled. Zinc can also be recovered from lead furnace slags by a slag fuming process.

Table 7 (a): Emission sources, control measures, dust reduction efficiencies and costs for the primary non-ferrous metal industry

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs US$)
Fugitive emissions	Suction hoods, enclosure, etc. off-gas cleaning by FF	> 99	..
Roasting/sintering	Updraught sintering: ESP + scrubbers (prior to double contact sulphuric acid plant) + FF for tail gases	..	7 - 10/Mg H_2SO_4
Conventional smelting (blast furnace reduction)	Shaft furnace: closed top/ efficient evacuation of tap holes + FF, covered launders, double bell furnace top	..	..
Imperial smelting	High-efficiency scrubbing Venturi scrubbers Double bell furnace top	> 95	.. .. 4/Mg metal produced
Pressure leaching	Application depends on leaching characteristics of concentrates	> 99	site-specific
Direct smelting reduction processes	Flash smelting, e.g. Kivcet, Outokumpu and Mitsubishi processes	..	..
	Bath smelting, e.g. top blown rotary converter, Ausmelt, Isasmelt, QSL and Noranda processes	Ausmelt: Pb 77, Cd 97; QSL: Pb 92, Cd 93	QSL: operating costs 60/Mg Pb

Table 7 (b): Emission sources, control measures, dust reduction efficiencies and costs for the secondary non-ferrous metal industry

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs, US$)
Lead production	Short rotary furnace: suction hoods for tap holes + FF; tube condenser, oxy-fuel burner	99.9	45/Mg Pb
Zinc production	Imperial smelting	> 95	14/Mg Zn

46. In general, processes should be combined with an effective dust collecting device for both primary gases and fugitive emissions. The most relevant emission reduction measures are outlined in tables 7 (a) and (b). Dust concentrations below 5 mg/m^3 have been achieved in some cases using fabric filters.

Cement industry (annex II, category 7)

47. Cement kilns may use secondary fuels such as waste oil or waste tyres. Where waste is used, emission requirements for waste incineration processes may apply, and where hazardous waste is used, depending on the amount used in the plant, emission requirements for hazardous waste incineration processes may apply. However, this section refers to fossil fuel fired kilns.

48. Particulates are emitted at all stages of the cement production process, consisting of material handling, raw material preparation (crushers, dryers), clinker production and cement preparation. Heavy metals are brought into the cement kiln with the raw materials, fossil and waste fuels.

49. For clinker production the following kiln types are available: long wet rotary kiln, long dry rotary kiln, rotary kiln with cyclone preheater, rotary kiln with grate preheater, shaft furnace. In terms of energy demand and emission control opportunities, rotary kilns with cyclone preheaters are preferable.

50. For heat recovery purposes, rotary kiln off-gases are conducted through the preheating system and the mill dryers (where installed) before being dedusted. The collected dust is returned to the feed material.

51. Less than 0.5% of lead and cadmium entering the kiln is released in exhaust gases. The high alkali content and the scrubbing action in the kiln favour metal retention in the clinker or kiln dust.

52. The emissions of heavy metals into the air can be reduced by, for instance, taking off a bleed stream and stockpiling the collected dust instead of returning it to the raw feed. However, in each case these considerations should be weighed against the consequences of releasing the heavy metals into the waste stockpile. Another possibility is the hot-meal bypass, where calcined hot-meal is in part discharged right in front of the kiln entrance and fed to the cement preparation plant. Alternatively, the dust can be added to the clinker. Another important measure is a very well controlled steady operation of the kiln in order to avoid emergency shut-offs of the electrostatic precipitators. These may be caused by excessive CO concentrations. It is important to avoid high peaks of heavy metal emissions in the event of such an emergency shut-off.

53. The most relevant emission reduction measures are outlined in table 8. To reduce direct dust emissions from crushers, mills, and dryers, fabric filters are mainly used, whereas kiln and clinker cooler waste gases are controlled by electrostatic precipitators. With ESP, dust can be reduced to concentrations below 50 mg/m^3. When FF are used, the clean gas dust content can be reduced to 10 mg/m^3.

Table 8: Emission sources, control measures, reduction efficiencies and costs for the cement industry

Emission source	Control measure(s)	Reduction efficiency (%)	Abatement costs
Direct emissions from crushers, mills, dryers	FF	Cd, Pb: > 95	..
Direct emissions from rotary kilns, clinker coolers	ESP	Cd, Pb: > 95	..
Direct emissions from rotary kilns	Carbon adsorption	Hg: > 95	..

Glass industry (annex II, category 8)

54. In the glass industry, lead emissions are particularly relevant given the various types of glass in which lead is introduced as raw material (e.g. crystal glass, cathode ray tubes). In the case of soda-lime container glass, lead emissions depend on the quality of the recycled glass used in the process. The lead content in dusts from crystal glass melting is usually about 20-60%.

55. Dust emissions stem mainly from batch mixing, furnaces, diffuse leakages from furnace openings, and finishing and blasting of glass products. They depend notably on the type of fuel used, the furnace type and the type

of glass produced. Oxy-fuel burners can reduce waste gas volume and flue dust production by 60%. The lead emissions from electrical heating are considerably lower than from oil/gas-firing.

56. The batch is melted in continuous tanks, day tanks or crucibles. During the melting cycle using discontinuous furnaces, the dust emission varies greatly. The dust emissions from crystal glass tanks (<5 kg/Mg melted glass) are higher than from other tanks (<1 kg/Mg melted soda and potash glass).

57. Some measures to reduce direct metal-containing dust emissions are: pelleting the glass batch, changing the heating system from oil/gas-firing to electrical heating, charging a larger share of glass returns in the batch, and applying a better selection of raw materials (size distribution) and recycled glass (avoiding lead-containing fractions). Exhaust gases can be cleaned in fabric filters, reducing the emissions below 10 mg/m^3. With electrostatic precipitators 30 mg/m^3 is achieved. The corresponding emission reduction efficiencies are given in table 9.

58. The development of crystal glass without lead compounds is in progress.

Table 9: Emission sources, control measures, dust reduction efficiencies and costs for the glass industry

Emission source	Control measure(s)	Dust reduction efficiency (%)	Abatement costs (total costs)
Direct emissions	FF	> 98	..
	ESP	> 90	..

Chlor-alkali industry (annex II, category 9)

59. In the chlor-alkali industry, Cl_2, alkali hydroxides and hydrogen are produced through electrolysis of a salt solution. Commonly used in existing plants are the mercury process and the diaphragm process, both of which need the introduction of good practices to avoid environmental problems. The membrane process results in no direct mercury emissions. Moreover, it shows a lower electrolytic energy and higher heat demand for alkali hydroxide concentration (the global energy balance resulting in a slight advantage for membrane cell technology in the range of 10 to 15%) and a more compact cell operation. It is, therefore, considered as the preferred option for new plants. Decision 90/3 of 14 June 1990 of the Commission for the Prevention of Marine Pollution from Land-based Sources (PARCOM) recommends that existing mercury cell chlor-alkali plants should be phased out as soon as practicable with the objective of phasing them out completely by 2010.

60. The specific investment for replacing mercury cells by the membrane process is reported to be in the region of US$ 700-1000/Mg Cl_2 capacity. Although additional costs may result from, inter alia, higher utility costs and brine purification cost, the operating cost will in most cases decrease. This is due to savings mainly from lower energy consumption, and lower waste-water treatment and waste-disposal costs.

61. The sources of mercury emissions into the environment in the mercury process are: cell room ventilation; process exhausts; products, particularly hydrogen; and waste water. With regard to emissions into air, Hg diffusely emitted from the cells to the cell room are particularly relevant. Preventive measures and control are of great importance and should be prioritized according to the relative importance of each source at a particular installation. In any case specific control measures are required when mercury is recovered from sludges resulting from the process.

62. The following measures can be taken to reduce emissions from existing mercury process plants:

- Process control and technical measures to optimize cell operation, maintenance and more efficient working methods;
- Coverings, sealings and controlled bleeding-off by suction;
- Cleaning of cell rooms and measures that make it easier to keep them clean; and
- Cleaning of limited gas streams (certain contaminated air streams and hydrogen gas).

63. These measures can cut mercury emissions to values well below 2.0g Mg of Cl production capacity, expressed as an annual average. There are examples of plants that achieve emissions well below 1.0 g Mg of Cl, production capacity. As a result of PARCOM decision 90/3, existing mercury-based chlor-alkali plants were required to meet the level of 2 g of Hg/Mg of Cl, by 31 December 1996 for emissions covered by the Convention for the Prevention of Marine Pollution from Land-based Sources. Since emissions depend to a large extent on good operating practices, the average should depend on and include maintenance periods of one year or less.

Municipal, medical and hazardous waste incineration (annex II, categories 10 and 11)

64. Emissions of cadmium, lead and mercury result from the incineration of municipal, medical and hazardous waste. Mercury, a substantial part of cadmium and minor parts of lead are volatilized in the process. Particular actions should be taken both before and after incineration to reduce these emissions.

65. The best available technology for dedusting is considered to be fabric filters in combination with dry or wet methods for controlling volatiles. Electrostatic precipitators in combination with wet systems can also be designed to reach low dust emissions, but they offer fewer opportunities than fabric filters especially with pre-coating for adsorption of volatile pollutants.

66. When BAT is used for cleaning the flue gases, the concentration of dust will be reduced to a range of 10 to 20 mg/m^3; in practice lower concentrations are reached, and in some cases concentrations of less than 1 mg/m^3 have been reported. The concentration of mercury can be reduced to a range of 0.05 to 0.10 mg/m^3 (normalized to 11% O_2).

67. The most relevant secondary emission reduction measures are outlined in table 10. It is difficult to provide generally valid data because the relative costs in US$/tonne depend on a particularly wide range of site-specific variables, such as waste composition.

68. Heavy metals are found in all fractions of the municipal waste stream (e.g. products, paper, organic materials). Therefore, by reducing the quantity of municipal waste that is incinerated, heavy metal emissions can be reduced. This can be accomplished through various waste management strategies, including recycling programmes and the composting of organic materials. In addition, some UN/ECE countries allow municipal waste to be landfilled. In a properly managed landfill, emissions of cadmium and lead are eliminated and mercury emissions may be lower than with incineration. Research on emissions of mercury from landfills is taking place in several UN/ECE countries.

Table 10: Emission sources, control measures, reduction efficiencies and costs for municipal, medical and hazardous waste incineration

Emission source	Control measure(s)	Reduction efficiency (%)	Abatement costs (total costs US$)
Stack gases	High-efficiency scrubbers	Pb, Cd: > 98; Hg: ca. 50	..
	ESP (3 fields)	Pb, Cd: 80 - 90	10-20/Mg waste
	Wet ESP (1 field)	Pb, Cd: 95 - 99	..
	Fabric filters	Pb, Cd: 95 - 99	15-30/Mg waste
	Carbon injection + FF	Hg: > 85	operating costs: ca. 2-3/Mg waste
	Carbon bed filtration	Hg: > 99	operating costs: ca. 50/Mg waste

Annex IV

TIMESCALES FOR THE APPLICATION OF LIMIT VALUES AND BEST AVAILABLE TECHNIQUES TO NEW AND EXISTING STATIONARY SOURCES

The timescales for the application of limit values and best available techniques are:

(a) For new stationary sources: two years after the date of entry into force of the present Protocol;

(b) For existing stationary sources: eight years after the date of entry into force of the present Protocol. If necessary, this period may be extended for specific existing stationary sources in accordance with the amortization period provided for by national legislation.

Annex V

LIMIT VALUES FOR CONTROLLING EMISSIONS FROM MAJOR STATIONARY SOURCES

I. INTRODUCTION

1. Two types of limit value are important for heavy metal emission control:

- Values for specific heavy metals or groups of heavy metals; and
- Values for emissions of particulate matter in general.

2. In principle, limit values for particulate matter cannot replace specific limit values for cadmium, lead and mercury, because the quantity of metals associated with particulate emissions differs from one process to another. However, compliance with these limits contributes significantly to reducing heavy metal emissions in general. Moreover, monitoring particulate emissions is generally less expensive than monitoring individual species and continuous monitoring of individual heavy metals is in general not feasible. Therefore, particulate limit values are of great practical importance and are also laid down in this annex in most cases to complement or replace specific limit values for cadmium or lead or mercury.

3. Limit values, expressed as mg/m^3, refer to standard conditions (volume at 273.15 K, 101.3 kPa, dry gas) and are calculated as an average value of one-hour measurements, covering several hours of operation, as a rule 24 hours. Periods of start-up and shutdown should be excluded. The averaging time may be extended when required to achieve sufficiently precise monitoring results. With regard to the oxygen content of the waste gas, the values given for selected major stationary sources shall apply. Any dilution for the purpose of lowering concentrations of pollutants in waste gases is forbidden. Limit values for heavy metals include the solid, gaseous and vapour form of the metal and its compounds, expressed as the metal. Whenever limit values for total emissions are given, expressed as g/unit of production or capacity respectively, they refer to the sum of stack and fugitive emissions, calculated as an annual value.

4. In cases in which an exceeding of given limit values cannot be excluded, either emissions or a performance parameter that indicates whether a control device is being properly operated and maintained shall be monitored. Monitoring of either emissions or performance indicators should take place continuously if the emitted mass flow of particulates is above 10 kg/h. If emissions are monitored, the concentrations of air pollutants in gas-carrying ducts have to be measured in a representative fashion. If particulate matter is monitored discontinuously, the concentrations should be measured at regular intervals, taking at least three independent readings per check. Sampling and analysis of all pollutants as well as reference measurement methods to calibrate automated measurement systems shall be carried out according to the standards laid down by the Comité européen de normalisation (CEN) or the International Organization for Standardization (ISO). While awaiting the development of the CEN or ISO standards, national standards shall apply. National standards can also be used if they provide equivalent results to CEN or ISO standards.

5. In the case of continuous monitoring, compliance with the limit values is achieved if none of the calculated average 24-hour emission concentrations exceeds the limit value or if the 24-hour average of the monitored parameter does not exceed the correlated value of that parameter that was established during a performance test when the control device was being properly operated and maintained. In the case of discontinuous emission monitoring, compliance is achieved if the average reading per check does not exceed the value of the limit. Compliance with each of the limit values expressed as total emissions per unit of production or total annual emissions is achieved if the monitored value is not exceeded, as described above.

II. SPECIFIC LIMIT VALUES FOR SELECTED MAJOR STATIONARY SOURCES

Combustion of fossil fuels (annex II, category 1):

6. Limit values refer to 6% O_2 in flue gas for solid fuels and to 3% O_2 for liquid fuels.

7. Limit value for particulate emissions for solid and liquid fuels: 50 mg/m^3.

Sinter plants (annex II, category 2):

8. Limit value for particulate emissions: 50 mg/m^3.

Pellet plants (annex II, category 2):

9. Limit value for particulate emissions:

(a) Grinding, drying: 25 mg/m^3; and

(b) Pelletizing: 25 mg/m^3; or

10. Limit value for total particulate emissions: 40 g/Mg of pellets produced.

Blast furnaces (annex II, category 3):

11. Limit value for particulate emissions: 50 mg/m^3.

Electric arc furnaces (annex II, category 3):

12. Limit value for particulate emissions: 20 mg/m^3.

Production of copper and zinc, including Imperial Smelting furnaces (annex II, categories 5 and 6):

13. Limit value for particulate emissions: 20 mg/m^3.

Production of lead (annex II, categories 5 and 6):

14. Limit value for particulate emissions: 10 mg/m^3.

Cement industry (annex II, category 7):

15. Limit value for particulate emissions: 50 mg/m^3.

Glass industry (annex II, category 8):

16. Limit values refer to different O_2 concentrations in flue gas depending on furnace type: tank furnaces: 8%; pot furnaces and day tanks: 13%.

17. Limit value for lead emissions: 5 mg/m^3.

Chlor-alkali industry (annex II, category 9):

18. Limit values refer to the total quantity of mercury released by a plant into the air, regardless of the emission source and expressed as an annual mean value.

19. Limit values for existing chlor-alkali plants shall be evaluated by the Parties meeting within the Executive Body no later than two years after the date of entry into force of the present Protocol.

20. Limit value for new chlor-alkali plants: 0.01 g Hg/Mg Cl_2 production capacity.

Municipal, medical and hazardous waste incineration (annex II, categories 10 and 11):

21. Limit values refer to 11% O_2 concentration in flue gas.

22. Limit value for particulate emissions:

(a) 10 mg/m^3 for hazardous and medical waste incineration;

(b) 25 mg/m^3 for municipal waste incineration.

23. Limit value for mercury emissions:

(a) 0.05 mg/m^3 for hazardous waste incineration;

(b) 0.08 mg/m^3 for municipal waste incineration;

(c) Limit values for mercury-containing emissions from medical waste incineration shall be evaluated by the Parties meeting within the Executive Body no later than two years after the date of entry into force of the present Protocol.

Annex VI

PRODUCT CONTROL MEASURES

1. Except as otherwise provided in this annex, no later than six months after the date of entry into force of the present Protocol, the lead content of marketed petrol intended for on-road vehicles shall not exceed 0.013 g/l. Parties marketing unleaded petrol with a lead content lower than 0.013 g/l shall endeavour to maintain or lower that level.

2. Each Party shall endeavour to ensure that the change to fuels with a lead content as specified in paragraph 1 above results in an overall reduction in the harmful effects on human health and the environment.

3. Where a State determines that limiting the lead content of marketed petrol in accordance with paragraph 1 above would result in severe socio-economic or technical problems for it or would not lead to overall environmental or health benefits because of, inter alia, its climate situation, it may extend the time period given in that paragraph to a period of up to 10 years, during which it may market leaded petrol with a lead content not exceeding 0.15 g/l. In such a case, the State shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present to the Executive Body in writing information on the reasons for this.

4. A Party is permitted to market small quantities, up to 0.5 per cent of its total petrol sales, of leaded petrol with a lead content not exceeding 0.15 g/l to be used by old on-road vehicles.

5. Each Party shall, no later than five years, or ten years for countries with economies in transition that state their intention to adopt a ten-year period in a declaration to be deposited with their instrument of ratification, acceptance, approval or accession, after the date of entry into force of this Protocol, achieve concentration levels which do not exceed:

(a) 0.05 per cent of mercury by weight in alkaline manganese batteries for prolonged use in extreme conditions (e.g. temperature below 0ºC or above 50ºC, exposed to shocks); and

(b) 0.025 per cent of mercury by weight in all other alkaline manganese batteries.

The above limits may be exceeded for a new application of a battery technology, or use of a battery in a new product, if reasonable safeguards are taken to ensure that the resulting battery or product without an easily removable battery will be disposed of in an environmentally sound manner. Alkaline manganese button cells and batteries composed of button cells shall also be exempted from this obligation.

Annex VII

PRODUCT MANAGEMENT MEASURES

1. This annex aims to provide guidance to Parties on product management measures.

2. The Parties may consider appropriate product management measures such as those listed below, where warranted as a result of the potential risk of adverse effects on human health or the environment from emissions of one or more of the heavy metals listed in annex I, taking into account all relevant risks and benefits of such measures, with a view to ensuring that any changes to products result in an overall reduction of harmful effects on human health and the environment:

(a) The substitution of products containing one or more intentionally added heavy metals listed in annex I, if a suitable alternative exists;

(b) The minimization or substitution in products of one or more intentionally added heavy metals listed in annex I;

(c) The provision of product information including labelling to ensure that users are informed of the content of one or more intentionally added heavy metals listed in annex I and of the need for safe use and waste handling;

(d) The use of economic incentives or voluntary agreements to reduce or eliminate the content in products of the heavy metals listed in annex I; and

(e) The development and implementation of programmes for the collection, recycling or disposal of products containing one of the heavy metals in annex I in an environmentally sound manner.

3. Each product or product group listed below contains one or more of the heavy metals listed in annex I and is the subject of regulatory or voluntary action by at least one Party to the Convention based for a significant part on the contribution of that product to emissions of one or more of the heavy metals in annex I. However, sufficient information is not yet available to confirm that they are a significant source for all Parties, thereby warranting inclusion in annex VI. Each Party is encouraged to consider available information and, where satisfied of the need to take precautionary measures, to apply product management measures such as those listed in paragraph 2 above to one or more of the products listed below:

(a) Mercury-containing electrical components, i.e. devices that contain one or several contacts/sensors for the transfer of electrical current such as relays, thermostats, level switches, pressure switches and other switches (actions taken include a ban on most mercury-containing electrical components; voluntary programmes to replace some mercury switches with electronic or special switches; voluntary recycling programmes for switches; and voluntary recycling programmes for thermostats);

(b) Mercury-containing measuring devices such as thermometers, manometers, barometers, pressure gauges, pressure switches and pressure transmitters (actions taken include a ban on mercury-containing thermometers and ban on measuring instruments);

(c) Mercury-containing fluorescent lamps (actions taken include reductions in mercury content per lamp through both voluntary and regulatory programmes and voluntary recycling programmes);

(d) Mercury-containing dental amalgam (actions taken include voluntary measures and a ban with exemptions on the use of dental amalgams and voluntary programmes to promote capture of dental amalgam

before release to water treatment plants from dental surgeries);

(e) Mercury-containing pesticides including seed dressing (actions taken include bans on all mercury pesticides including seed treatments and a ban on mercury use as a disinfectant);

(f) Mercury-containing paint (actions taken include bans on all such paints, bans on such paints for interior use and use on children's toys; and bans on use in antifouling paints); and

(g) Mercury-containing batteries other than those covered in annex VI (actions taken include reductions in mercury content through both voluntary and regulatory programmes and environmental charges and voluntary recycling programmes).

Protocol to the Convention on Long-Range Transboundary Air Pollution of 13 November 1979 on Persistent Organic Pollutants, Aarhus, 1998

Done at Aarhus 24 June 1998

Entered into force (not in force)

Depositary: Secretary-General of the United Nations

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The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,

Recognizing that emissions of many persistent organic pollutants are transported across international boundaries and are deposited in Europe, North America and the Arctic, far from their site of origin, and that the atmosphere is the dominant medium of transport,

Aware that persistent organic pollutants resist degradation under natural conditions and have been associated with adverse effects on human health and the environment,

Concerned that persistent organic pollutants can biomagnify in upper trophic levels to concentrations which might affect the health of exposed wildlife and humans,

Acknowledging that the Arctic ecosystems and especially its indigenous people, who subsist on Arctic fish and mammals, are particularly at risk because of the biomagnification of persistent organic pollutants,

Mindful that measures to control emissions of persistent organic pollutants would also contribute to the protection of the environment and human health in areas outside the United Nations Economic Commission for Europe's region, including the Arctic and international waters,

Resolved to take measures to anticipate, prevent or minimize emissions of persistent organic pollutants, taking into account the application of the precautionary approach, as set forth in principle 15 of the Rio Declaration on Environment and Development,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Noting the need for global action on persistent organic pollutants and recalling the role envisaged in chapter 9 of Agenda 21 for regional agreements to reduce global transboundary air pollution and, in particular, for the United Nations Economic Commission for Europe to share its regional experience with other regions of the world,

Recognizing that there are subregional, regional and global regimes in place, including international instruments governing the management of hazardous wastes, their transboundary movement and disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Considering that the predominant sources of air pollution contributing to the accumulation of persistent organic pollutants are the use of certain pesticides, the manufacture and use of certain chemicals, and the unintentional formation of certain substances in waste incineration, combustion, metal production and mobile sources,

Aware that techniques and management practices are available to reduce emissions of persistent organic pollutants into the air,

Conscious of the need for a cost-effective regional approach to combating air pollution,

Noting the important contribution of the private and non-governmental sectors to knowledge of the effects associated with persistent organic pollutants, available alternatives and abatement techniques, and their role in assisting in the reduction of emissions of persistent organic pollutants,

Bearing in mind that measures taken to reduce persistent organic pollutant emissions should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international competition and trade,

Taking into consideration existing scientific and technical data on emissions, atmospheric processes and effects on human health and the environment of persistent organic pollutants, as well as on abatement costs, and acknowledging the need to continue scientific and technical cooperation to further the understanding of these issues,

Recognizing the measures on persistent organic pollutants already taken by some of the Parties on a national level and/or under other international conventions,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of the present Protocol,

1. "Convention" means the Convention on Long-range Transboundary Air Pollution, adopted in Geneva on 13 November 1979;

2. "EMEP" means the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe;

3. "Executive Body" means the Executive Body for the Convention constituted under article 10, paragraph 1, of the Convention;

4. "Commission" means the United Nations Economic Commission for Europe;

5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol;

6. "Geographical scope of EMEP" means the area defined in article 1, paragraph 4, of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;

7. "Persistent organic pollutants" (POPs) are organic substances that (i) possess toxic characteristics; (ii) are persistent; (iii) bioaccumulate; (iv) are prone to long-range transboundary atmospheric transport and deposition; and (v) are likely to cause significant adverse human health or environmental effects near to and distant from their sources;

8. "Substance" means a single chemical species, or a number of chemical species which form a specific group by virtue of (a) having similar properties and being emitted together into the environment; or (b) forming a mixture normally marketed as a single article;

9. "Emission" means the release of a substance from a point or diffuse source into the atmosphere;

10. "Stationary source" means any fixed building, structure, facility, installation, or equipment that emits or may emit any persistent organic pollutant directly or indirectly into the atmosphere;

11. "Major stationary source category" means any stationary source category listed in annex VIII;

12. "New stationary source" means any stationary source of which the construction or substantial modification is commenced after the expiry of two years from the date of entry into force of: (i) this Protocol; or (ii) an amendment to annex III or VIII, where the stationary source becomes subject to the provisions of this Protocol only by virtue of that amendment. It shall be a matter for the competent national authorities to decide whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification.

Article 2

OBJECTIVE

The objective of the present Protocol is to control, reduce or eliminate discharges, emissions and losses of persistent organic pollutants.

Article 3

BASIC OBLIGATIONS

1. Except where specifically exempted in accordance with article 4, each Party shall take effective measures:

   (a) To eliminate the production and use of the substances listed in annex I in accordance with the implementation requirements specified therein;

   (b) (i) To ensure that, when the substances listed in annex I are destroyed or disposed of, such destruction or disposal is undertaken in an environmentally sound manner, taking into account relevant subregional, regional and global regimes governing the management of hazardous wastes and their disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

   (ii) To endeavour to ensure that the disposal of substances listed in annex I is carried out domestically, taking into account pertinent environmental considerations;

   (iii) To ensure that the transboundary movement of the substances listed in annex I is conducted in an environmentally sound manner, taking into consideration applicable subregional, regional, and global regimes governing the transboundary movement of hazardous wastes, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(c) To restrict the substances listed in annex II to the uses described, in accordance with the implementation requirements specified therein.

2. The requirements specified in paragraph 1 (b) above shall become effective for each substance upon the date that production or use of that substance is eliminated, whichever is later.

3. For substances listed in annex I, II, or III, each Party should develop appropriate strategies for identifying articles still in use and wastes containing such substances, and shall take appropriate measures to ensure that such wastes and such articles, upon becoming wastes, are destroyed or disposed of in an environmentally sound manner.

4. For the purposes of paragraphs 1 to 3 above, the terms waste, disposal, and environmentally sound shall be interpreted in a manner consistent with the use of those terms under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

5. Each Party shall:

(a) Reduce its total annual emissions of each of the substances listed in annex III from the level of the emission in a reference year set in accordance with that annex by taking effective measures, appropriate in its particular circumstances;

(b) No later than the timescales specified in annex VI, apply:

(i) The best available techniques, taking into consideration annex V, to each new stationary source within a major stationary source category for which annex V identifies best available techniques;

(ii) Limit values at least as stringent as those specified in annex IV to each new stationary source within a category mentioned in that annex, taking into consideration annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission levels;

(iii) The best available techniques, taking into consideration annex V, to each existing stationary source within a major stationary source category for which annex V identifies best available techniques, insofar as this is technically and economically feasible. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(iv) Limit values at least as stringent as those specified in annex IV to each existing stationary source within a category mentioned in that annex, insofar as this is technically and economically feasible, taking into consideration annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(v) Effective measures to control emissions from mobile sources, taking into consideration annex VII.

6. In the case of residential combustion sources, the obligations set out in paragraph 5 (b) (i) and (iii) above shall refer to all stationary sources in that category taken together.

7. Where a Party, after the application of paragraph 5 (b) above, cannot achieve the requirements of paragraph 5 (a) above for a substance specified in annex III, it shall be exempted from its obligations in paragraph 5 (a) above for that substance.

8. Each Party shall develop and maintain emission inventories for the substances listed in annex III, and shall collect available information relating to the production and sales of the substances listed in annexes I and II, for those Parties within the geographical scope of EMEP, using, as a minimum, the methodologies and the spatial and temporal resolution specified by the Steering Body of EMEP, and, for those Parties outside the geographical scope of EMEP, using as guidance the

methodologies developed through the work plan of the Executive Body. It shall report this information in accordance with the reporting requirements set out in article 9 below.

Article 4

EXEMPTIONS

1. Article 3, paragraph 1, shall not apply to quantities of a substance to be used for laboratory-scale research or as a reference standard.

2. A Party may grant an exemption from article 3, paragraphs 1 (a) and (c), in respect of a particular substance, provided that the exemption is not granted or used in a manner that would undermine the objectives of the present Protocol, and only for the following purposes and under the following conditions:

   (a) For research other than that referred to in paragraph 1 above, if:

      (i) No significant quantity of the substance is expected to reach the environment during the proposed use and subsequent disposal;

      (ii) The objectives and parameters of such research are subject to assessment and authorization by the Party; and

      (iii) In the event of a significant release of a substance into the environment, the exemption will terminate immediately, measures will be taken to mitigate the release as appropriate, and an assessment of the containment measures will be conducted before research may resume;

   (b) To manage as necessary a public health emergency, if:

      (i) No suitable alternative measures are available to the Party to address the situation;

      (ii) The measures taken are proportional to the magnitude and severity of the emergency;

      (iii) Appropriate precautions are taken to protect human health and the environment and to ensure that the substance is not used outside the geographical area subject to the emergency;

      (iv) The exemption is granted for a period of time that does not exceed the duration of the emergency; and

      (v) Upon termination of the emergency, any remaining stocks of the substance are subject to the provisions of article 3, paragraph 1 (b);

   (c) For a minor application judged to be essential by the Party, if:

      (i) The exemption is granted for a maximum of five years;

      (ii) The exemption has not previously been granted by it under this article;

      (iii) No suitable alternatives exist for the proposed use;

      (iv) The Party has estimated the emissions of the substance resulting from the exemption and their contribution to the total emissions of the substance from the Parties;

      (v) Adequate precautions are taken to ensure that the emissions to the environment are minimized; and

(vi) Upon termination of the exemption, any remaining stocks of the substance are subject to the provisions of article 3, paragraph 1 (b).

3. Each Party shall, no later than ninety days after granting an exemption under paragraph 2 above, provide the secretariat with, as a minimum, the following information:

(a) The chemical name of the substance subject to the exemption;

(b) The purpose for which the exemption has been granted;

(c) The conditions under which the exemption has been granted;

(d) The length of time for which the exemption has been granted;

(e) Those to whom, or the organization to which, the exemption applies; and

(f) For an exemption granted under paragraphs 2 (a) and (c) above, the estimated emissions of the substance as a result of the exemption and an assessment of their contribution to the total emissions of the substance from the Parties.

4. The secretariat shall make available to all Parties the information received under paragraph 3 above.

Article 5

EXCHANGE OF INFORMATION AND TECHNOLOGY

The Parties shall, in a manner consistent with their laws, regulations and practices, create favourable conditions to facilitate the exchange of information and technology designed to reduce the generation and emission of persistent organic pollutants and to develop cost-effective alternatives, by promoting, inter alia:

(a) Contacts and cooperation among appropriate organizations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance;

(b) The exchange of and access to information on the development and use of alternatives to persistent organic pollutants as well as on the evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social costs of such alternatives;

(c) The compilation and regular updating of lists of their designated authorities engaged in similar activities in other international forums;

(d) The exchange of information on activities conducted in other international forums.

Article 6

PUBLIC AWARENESS

The Parties shall, consistent with their laws, regulations and practices, promote the provision of information to the general public, including individuals who are direct users of persistent organic pollutants. This information may include, inter alia:

(a) Information, including labelling, on risk assessment and hazard;

(b) Information on risk reduction;

(c) Information to encourage the elimination of persistent organic pollutants or a reduction in their use, including, where appropriate, information on integrated pest management, integrated crop management and the economic and social impacts of this elimination or reduction; and

(d) Information on alternatives to persistent organic pollutants, as well as an evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social impacts of such alternatives.

Article 7

STRATEGIES, POLICIES, PROGRAMMES, MEASURES AND INFORMATION

1. Each Party shall, no later than six months after the date on which this Protocol enters into force for it, develop strategies, policies and programmes in order to discharge its obligations under the present Protocol.

2. Each Party shall:

(a) Encourage the use of economically feasible, environmentally sound management techniques, including best environmental practices, with respect to all aspects of the use, production, release, processing, distribution, handling, transport and reprocessing of substances subject to the present Protocol and manufactured articles, mixtures or solutions containing such substances;

(b) Encourage the implementation of other management programmes to reduce emissions of persistent organic pollutants, including voluntary programmes and the use of economic instruments;

(c) Consider the adoption of additional policies and measures as appropriate in its particular circumstances, which may include non-regulatory approaches;

(d) Make determined efforts that are economically feasible to reduce levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles, as soon as the relevance of the source has been established;

(e) Take into consideration in its programmes for evaluating substances, the characteristics specified in paragraph 1 of Executive Body decision 1998/2 on information to be submitted and procedures for adding substances to annex I, II or III, including any amendments thereto.

3. The Parties may take more stringent measures than those required by the present Protocol.

Article 8

RESEARCH, DEVELOPMENT AND MONITORING

The Parties shall encourage research, development, monitoring and cooperation related, but not limited, to:

(a) Emissions, long-range transport and deposition levels and their modelling, existing levels in the biotic and abiotic environment, the elaboration of procedures for harmonizing relevant methodologies;

(b) Pollutant pathways and inventories in representative ecosystems;

(c) Relevant effects on human health and the environment, including quantification of those effects;

(d) Best available techniques and practices, including agricultural practices, and emission control techniques and practices currently employed by the Parties or under development;

(e) Methodologies permitting consideration of socio-economic factors in the evaluation of alternative control strategies;

(f) An effects-based approach which integrates appropriate information, including information obtained under subparagraphs (a) to (e) above, on measured or modelled environmental levels, pathways, and effects on human health and the environment, for the purpose of formulating future control strategies which also take into account economic and technological factors;

(g) Methods for estimating national emissions and projecting future emissions of individual persistent organic pollutants and for evaluating how such estimates and projections can be used to structure future obligations;

(h) Levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles and the significance of these levels for long-range transport, as well as techniques to reduce levels of these contaminants, and, in addition, levels of persistent organic pollutants generated during the life cycle of timber treated with pentachlorophenol.

Priority should be given to research on substances considered to be the most likely to be submitted under the procedures specified in article 14, paragraph 6.

Article 9

REPORTING

1. Subject to its laws governing the confidentiality of commercial information:

(a) Each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties meeting within the Executive Body, information on the measures that it has taken to implement the present Protocol;

(b) Each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of emissions of persistent organic pollutants using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. Parties in areas outside the geographical scope of EMEP shall make available similar information to the Executive Body if requested to do so. Each Party shall also provide information on the levels of emissions of the substances listed in annex III for the reference year specified in that annex.

2. The information to be reported in accordance with paragraph 1 (a) above shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports.

3. In good time before each annual session of the Executive Body, EMEP shall provide information on the long-range transport and deposition of persistent organic pollutants.

Article 10

REVIEWS BY THE PARTIES AT SESSIONS OF THE EXECUTIVE BODY

1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2 (a), of the Convention, review the information supplied by the Parties, EMEP and other subsidiary bodies, and the reports of the Implementation Committee referred to in article 11 of the present Protocol.

2. The Parties shall, at sessions of the Executive Body, keep under review the progress made towards achieving the obligations set out in the present Protocol.

3. The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol. Such reviews will take into account the best available scientific information on the effects of the deposition of persistent organic pollutants, assessments of technological developments, changing economic conditions and the fulfilment of the obligations on emission levels. The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall be completed no later than three years after the present Protocol enters into force.

Article 11

COMPLIANCE

Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by decision 1997/2 of the Executive Body at its fifteenth session shall carry out such reviews and report to the Parties meeting within the Executive Body in accordance with the terms of the annex to that decision, including any amendments thereto.

Article 12

SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The parties to the dispute shall inform the Executive Body of their dispute.

2. When ratifying, accepting, approving or acceding to the present Protocol, or at anytime thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

   (a) Submission of the dispute to the International Court of Justice;

   (b) Arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body, as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute agree otherwise.

5. Except in a case where the parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of equal numbers of members appointed by each Party concerned or, where the Parties in conciliation share the same interest, by the group sharing that interest, and a chairperson chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the Parties shall consider in good faith.

Article 13

ANNEXES

The annexes to the present Protocol shall form an integral part of the Protocol. Annexes V and VII are recommendatory in character.

Article 14

AMENDMENTS

1. Any Party may propose amendments to the present Protocol.

2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties meeting within the Executive Body shall discuss the proposed amendments at its next session, provided that the proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the present Protocol and to annexes I to IV, VI and VIII shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to annexes V and VII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of ninety days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least sixteen Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to annex V or VII shall so notify the Depositary in writing within ninety days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

6. In the case of a proposal to amend annex I, II, or III by adding a substance to the present Protocol:

   (a) The proposer shall provide the Executive Body with the information specified in Executive Body decision 1998/2, including any amendments thereto; and

   (b) The Parties shall evaluate the proposal in accordance with the procedures set forth in Executive Body decision 1998/2, including any amendments thereto.

7. Any decision to amend Executive Body decision 1998/2 shall be taken by consensus of the Parties meeting within the Executive Body and shall take effect sixty days after the date of adoption.

Article 15

SIGNATURE

1. The present Protocol shall be open for signature at Aarhus (Denmark) from 24 to 25 June 1998, then at United Nations Headquarters in New York until 21 December 1998, by States members of the Commission as well as States having consultative status with the Commission pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

Article 16

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 21 December 1998 by the States and organizations that meet the requirements of article 15, paragraph 1.

Article 17

DEPOSITARY

The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of Depositary.

Article 18

ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited with the Depositary.

2. For each State and organization referred to in article 15, paragraph 1, which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 19

WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20

AUTHENTIC TEXTS

The original of the present Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

Done at Aarhus (Denmark), this twenty-fourth day of June, one thousand nine hundred and ninety-eight.

Annex I

SUBSTANCES SCHEDULED FOR ELIMINATION

Unless otherwise specified in the present Protocol, this annex shall not apply to the substances listed below when they occur: (i) as contaminants in products; or (ii) in articles manufactured or in use by the implementation date; or (iii) as site-limited chemical intermediates in the manufacture of one or more different substances and are thus chemically transformed. Unless otherwise specified, each obligation below is effective upon the date of entry into force of the Protocol.

	Implementation requirements	
Substance	**Elimination of**	**Conditions**
Aldrin CAS: 309-00-2	Production	None
	Use	None
Chlordane CAS: 57-74-9	Production	None
	Use	None
Chlordecone CAS: 143-50-0	Production	None
	Use	None
DDT CAS: 50-29-3	Production	1. Eliminate production within one year of consensus by the Parties that suitable alternatives to DDT are available for public health protection from diseases such as malaria and encephalitis. 2. With a view to eliminating the production of DDT at the earliest opportunity, the Parties shall, no later than one year after the date of entry into force of the present Protocol and periodically thereafter as necessary, and in consultation with the World Health Organization, the Food and Agriculture Organization of the United Nations and the United Nations Environment Programme, review the availability and feasibility of alternatives and, as appropriate, promote the commercialization of safer and economically viable alternatives to DDT.
	Use	None
Endrin CAS: 72-20-8	Production	None
	Use	None
Heptachlor CAS: 76-44-8	Production	None
	Use	None, except for used by certified personnel for the control of fire ants in closed industrial electrical junction boxes. Such use shall be re-evaluated under this Protocol no later than two years after the date of entry into force.
Hexabromobiphenyl CAS: 36355-01-8	Production	None
	Use	None
Hexachlorobenzene CAS: 118-74-1	Production	None, except for production for a limited purpose as specified in a statement deposited by a country with an economy in transition upon signature or accession.
	Use	None, except for production for a limited purpose as specified in a statement deposited by a country with an economy in transition upon signature or accession.
Mirex CAS: 2385-85-5	Production	None
	Use	None
PCB[a]	Production	None, except for countries with economies in transition which shall eliminate production as soon as possible and no later than 31 December 2005 and which state in a declaration to be deposited together with their instrument of ratification, acceptance, approval or accession, their intention to do so.
	Use	None, except as identified in annex II.
Toxaphene CAS: 8001-35-2	Production	None
	Use	None

[a] The Parties agree to reassess under the Protocol by 31 December 2004 the prodution and use of polychlorinated terphenyls and "uglec".

Annex II

SUBSTANCES SCHEDULED FOR RESTRICTIONS ON USE

Unless otherwise specified in the present Protocol, this annex shall not apply to the substances listed below when they occur: (i) as contaminants in products; or (ii) in articles manufactured or in use by the implementation date; or (iii) as site-limited chemical intermediates in the manufacture of one or more different substances and are thus chemically transformed. Unless otherwise specified, each obligation below is effective upon the date of entry into force of the Protocol.

	Implementation requirements	
Substance	**Restricted to uses**	**Conditions**
DDT CAS: 50-29-3	1. For public health protection from diseases such as malaria and encephalitis.	1. Use allowed only as a component of an integrated pest management strategy and only to the extent necessary and only until one year after the date of the elimination of production in accordance with annex I.
	2. As a chemical intermediate to produce Dicofol.	2. Such use shall be reassessed no later than two years after the date of entry into force of the present Protocol.
HCH CAS: 608-73-1	Technical HCH (i.e., HCH mixed isomers) is restricted to use as an intermediate in chemical manufacturing.	
	Products in which at least 99% of the HCH isomer is in the gamma form (i.e., lindane, CAS: 58-89-9) are restricted to the following uses: 1. Seed treatment. 2. Soil applications directly followed by incorporation into the topsoil surface layer. 3. Professional remedial and industrial treatment of lumber, timber and logs. 4. Public health and veterinary topical insecticide. 5. Non-aerial application to tree seedlings, small-scale lawn use, and indoor and outdoor use for nursery stock and ornamentals. 6. Indoor industrial and residential applications.	All restricted uses of lindane shall be reassessed under the Protocol no later than two years after the date of entry into force.
PCB[a]	PCBs in use as of the date of entry into force or produced up to 31 December 2005 in accordance with the provisions of annex I.	Parties shall make determined efforts designed to lead to: (a) The elimination of the use of identifiable PCBs in equipment (i.e. transformers, capacitors or other receptacles containing residual liquid stocks containing PCBs in volumes greater than 5 dm^3 and having a concentration of 0.05% PCBs or greater, as soon as possible, but no later than 31 December 2010, or 31 December 2015 for countries with economies in transition; (b) The destruction or decontamination in an environmentally sound manner of all liquid PCBs referred to in subparagraph (a) and other liquid PCBs containing more than 0.005% PCBs not in equipment, as soon as possible, but no later than 31 December 2015, or 31 December 2020 for countries with economies in transition; and (c) The decontamination or disposal of equipment referred to in subparagraph (a) in an environmentally sound manner.

a The Parties agree to reassess under the Protocol by 31 December 2004 the production and use of polychlorinated terphenyls and "ugilec".

Annex III

SUBSTANCES REFERRED TO IN ARTICLE 3, PARAGRAPH 5 (a), AND THE REFERENCE YEAR FOR THE OBLIGATION

Substance	Reference year
PAHs[a]	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Dioxins/furans[b]	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Hexachlorobenzene	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.

[a] Polycyclic aromatic hydrocarbons (PAHs): For the purposes of emission inventories, the following four indicator compounds shall be used: benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, and indeno(1,2,3-cd)pyrene.

[b] Dioxins and furans (PCDD/F): Polychlorinated dibenzo-p-dioxins (PCDD) and polychlorinated dibenzofurans (PCDF) are tricyclic, aromatic compounds formed by two benzene rings which are connected by two oxygen atoms in PCDD and by one oxygen atom in PCDF and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

Annex IV

LIMIT VALUES FOR PCDD/F FROM MAJOR STATIONARY SOURCES

I. INTRODUCTION

1. A definition of dioxins and furans (PCDD/F) is provided in annex III to the present Protocol.

2. Limit values are expressed as ng/m3 or mg/m3 under standard conditions (273.15 K, 101.3 kPa, and dry gas).

3. Limit values relate to the normal operating situation, including start-up and shutdown procedures, unless specific limit values have been defined for those situations.

4. Sampling and analysis of all pollutants shall be carried out according to the standards laid down by the Comité européen de normalisation (CEN), the International Organization for Standardization (ISO), or the corresponding United States or Canadian reference methods. While awaiting the development of CEN or ISO standards, national standards shall apply.

5. For verification purposes, the interpretation of measurement results in relation to the limit value must also take into account the inaccuracy of the measurement method. A limit value is considered to be met if the result of the measurement, from which the inaccuracy of the measurement method is subtracted, does not exceed it.

6. Emissions of different congeners of PCDD/F are given in toxicity equivalents (TE) in comparison to 2,3,7,8-TCDD using the system proposed by the NATO Committee on the Challenges of Modern Society (NATO-CCMS) in 1988.

II. LIMIT VALUES FOR MAJOR STATIONARY SOURCES

7. The following limit values, which refer to 11% O_2 concentration in flue gas, apply to the following incinerator types:

Municipal solid waste (burning more than 3 tonnes per hour)	0.1 ng TE/m^3
Medical solid waste (burning more than 1 tonne per hour)	0.5 ng TE/m^3
Hazardous waste (burning more than 1 tonne per hour)	0.2 ng TE/m^3

Annex V

BEST AVAILABLE TECHNIQUES TO CONTROL EMISSIONS OF PERSISTENT ORGANIC POLLUTANTS FROM MAJOR STATIONARY SOURCES

I. INTRODUCTION

1. The purpose of this annex is to provide the Parties to the Convention with guidance in identifying best available techniques to allow them to meet the obligations in article 3, paragraph 5, of the Protocol.

2. "Best available techniques" (BAT) means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and their impact on the environment as a whole:

   - 'Techniques' includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

   - 'Available' techniques means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the territory of the Party in question, as long as they are reasonably accessible to the operator;

   - 'Best' means most effective in achieving a high general level of protection of the environment as a whole.

In determining the best available techniques, special consideration should be given, generally or in specific cases, to the factors below, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention:

- The use of low-waste technology;

- The use of less hazardous substances;

- The furthering of recovery and recycling of substances generated and used in the process and of waste;

- Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

- Technological advances and changes in scientific knowledge and understanding;

- The nature, effects and volume of the emissions concerned;

- The commissioning dates for new or existing installations;

- The time needed to introduce the best available technique;

- The consumption and nature of raw materials (including water) used in the process and its energy efficiency;

- The need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;

- The need to prevent accidents and to minimize their consequences for the environment.

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions.

3. Information regarding the effectiveness and costs of control measures is based on documents received and reviewed by the Task Force and the Preparatory Working Group on POPs. Unless otherwise indicated, the techniques listed are considered to be well established on the basis of operational experience.

4. Experience with new plants incorporating low-emission techniques, as well as with retrofitting of existing plants, is continuously growing. The regular elaboration and amendment of the annex will therefore be necessary. Best available techniques (BAT) identified for new plants can usually be applied to existing plants provided there is an adequate transition period and they are adapted.

5. The annex lists a number of control measures which span a range of costs and efficiencies. The choice of measures for any particular case will depend on a number of factors, including economic circumstances, technological infrastructure and capacity, and any existing air pollution control measures.

6. The most important POPs emitted from stationary sources are:

   (a) Polychlorinated dibenzo-p-dioxins/furans (PCDD/F);

   (b) Hexachlorobenzene (HCB);

   (c) Polycyclic aromatic hydrocarbons (PAHs).

Relevant definitions are provided in annex III to the present Protocol.

II. MAJOR STATIONARY SOURCES OF POP EMISSIONS

7. PCDD/F are emitted from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. Major stationary sources of PCDD/F may be as follows:

   (a) Waste incineration, including co-incineration;

   (b) Thermal metallurgical processes, e.g. production of aluminium and other non-ferrous metals, iron and steel;

   (c) Combustion plants providing energy;

   (d) Residential combustion; and

   (e) Specific chemical production processes releasing intermediates and by-products.

8. Major stationary sources of PAH emissions may be as follows:

   (a) Domestic wood and coal heating;

   (b) Open fires such as refuse burning, forest fires and after-crop burning;

   (c) Coke and anode production;

   (d) Aluminium production (via Soederberg process); and

   (e) Wood preservation installations, except for a Party for which this category does not make a significant contribution to its total emissions of PAH (as defined in annex III).

9. Emissions of HCB result from the same type of thermal and chemical processes as those emitting PCDD/F, and HCB is formed by a similar mechanism. Major sources of HCB emissions may be as follows:

(a) Waste incineration plants, including co-incineration;

(b) Thermal sources of metallurgical industries; and

(c) Use of chlorinated fuels in furnace installations.

III. GENERAL APPROACHES TO CONTROLLING EMISSIONS OF POPs

10. There are several approaches to the control or prevention of POP emissions from stationary sources. These include the replacement of relevant feed materials, process modifications (including maintenance and operational control) and retrofitting existing plants. The following list provides a general indication of available measures, which may be implemented either separately or in combination:

(a) Replacement of feed materials which are POPs or where there is a direct link between the materials and POP emissions from the source;

(b) Best environmental practices such as good housekeeping, preventive maintenance programmes, or process changes such as closed systems (for instance in cokeries or use of inert electrodes for electrolysis);

(c) Modification of process design to ensure complete combustion, thus preventing the formation of persistent organic pollutants, through the control of parameters such as incineration temperature or residence time;

(d) Methods for flue-gas cleaning such as thermal or catalytic incineration or oxidation, dust precipitation, adsorption;

(e) Treatment of residuals, wastes and sewage sludge by, for example, thermal treatment or rendering them inert.

11. The emission levels given for different measures in tables 1, 2, 4, 5, 6, 8, and 9 are generally case-specific. The figures or ranges give the emission levels as a percentage of the emission limit values using conventional techniques.

12. Cost-efficient considerations may be based on total costs per year per unit of abatement (including capital and operational costs). POP emission reduction costs should also be considered within the framework of the overall process economics, e.g. the impact of control measures and costs of production. Given the many influencing factors, investment and operating cost figures are highly case-specific.

IV. CONTROL TECHNIQUES FOR THE REDUCTION OF PCDD/F EMISSIONS

A. Waste incineration

13. Waste incineration includes municipal waste, hazardous waste, medical waste and sewage sludge incineration.

14. The main control measures for PCDD/F emissions from waste incineration facilities are:

(a) Primary measures regarding incinerated wastes;

(b) Primary measures regarding process techniques;

(c) Measures to control physical parameters of the combustion process and waste gases (e.g. temperature stages, cooling rate, O_2 content, etc.);

(d) Cleaning of the flue gas; and

(e) Treatment of residuals from the cleaning process.

15. The primary measures regarding the incinerated wastes, involving the management of feed material by reducing halogenated substances and replacing them by non-halogenated alternatives, are not appropriate for municipal or hazardous waste incineration. It is more effective to modify the incineration process and install secondary measures for flue-gas cleaning. The management of feed material is a useful primary measure for waste reduction and has the possible added benefit of recycling. This may result in indirect PCDD/F reduction by decreasing the waste amounts to be incinerated.

16. The modification of process techniques to optimize combustion conditions is an important and effective measure for the reduction of PCDD/F emissions (usually 850°C or higher, assessment of oxygen supply depending on the heating value and consistency of the wastes, sufficient residence time—850°C for ca. 2 sec—and turbulence of the gas, avoidance of cold gas regions in the incinerator, etc.). Fluidized bed incinerators keep a lower temperature than 850°C with adequate emission results. For existing incinerators this would normally involve redesigning and/or replacing a plant—an option which may not be economically viable in all countries. The carbon content in ashes should be minimized.

17. Flue gas measures. The following measures are possibilities for lowering reasonably effectively the PCDD/F content in the flue gas. The de novo synthesis takes place at about 250 to 450°C. These measures are a prerequisite for further reductions to achieve the desired levels at the end of the pipe:

(a) Quenching the flue gases (very effective and relatively inexpensive);

(b) Adding inhibitors such as triethanolamine or triethylamine (can reduce oxides of nitrogen as well), but side-reactions have to be considered for safety reasons;

(c) Using dust collection systems for temperatures between 800 and 1000°C, e.g. ceramic filters and cyclones;

(d) Using low-temperature electric discharge systems; and

(e) Avoiding fly ash deposition in the flue gas exhaust system.

18. Methods for cleaning the flue gas are:

(a) Conventional dust precipitators for the reduction of particle-bound PCDD/F;

(b) Selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR);

(c) Adsorption with activated charcoal or coke in fixed or fluidized systems;

(d) Different types of adsorption methods and optimized scrubbing systems with mixtures of activated charcoal, open hearth coal, lime and limestone solutions in fixed bed, moving bed and fluidized bed reactors. The collection efficiency for gaseous PCDD/F can be improved with the use of a suitable pre-coat layer of activated coke on the surface of a bag filter;

(e) H_2O_2-oxidation; and

(f) Catalytic combustion methods using different types of catalysts (i.e. Pt/Al_2O_3 or copper-chromite catalysts with different promoters to stabilize the surface area and to reduce ageing of the catalysts).

19. The methods mentioned above are capable of reaching emission levels of 0.1 ng TE/m³ PCDD/F in the flue gas. However, in systems using activated charcoal or coke adsorbers/filters care must be taken to ensure that fugitive carbon dust does not increase PCDD/F emissions downstream. Also, it should be noted that adsorbers and dedusting installations prior to catalysts (SCR technique) yield PCDD/F-laden residues, which need to be reprocessed or require proper disposal.

20. A comparison between the different measures to reduce PCDD/F in flue gas is very complex. The resulting matrix includes a wide range of industrial plants with different capacities and configuration. Cost parameters include the reduction measures for minimizing other pollutants as well, such as heavy metals (particle-bound or not particle-bound). A direct relation for the reduction in PCDD/F emissions alone cannot, therefore, be isolated in most cases. A summary of the available data for the various control measures is given in table 1.

Table 1: Comparison of different flue-gas cleaning measures and process modifications in waste incineration plants to reduce PCDD/F emissions

Management options	Emission level (%)[a]	Estimated costs	Management risks
Primary measures by modification of feed materials:			Pre-sorting of feed material not effective; only parts could be collected; other chlorine-containing material, for instance kitchen salt, paper, etc., cannot be avoided.
– Elimination of precursors and chlorine-containing feed material; and	Resulting emission level not quantified; seems not to be linearly dependent on the amount of the feed material.		For hazardous chemical waste this is not desirable.
– Management of waste streams.			Useful primary measure and feasible in special cases (for instance, waste oils, electrical components, etc.) with with the possible added benefit of recycling of the materials.
Modification of process technology:			
– Optimized combustion conditions;			Retrofitting of the whole process needed.
– Avoidance of temperatures below 850°C and cold regions in flue gas;			
– Sufficient oxygen content; control of oxygen input depending on the heating value and consistency of feed material; and			
– Sufficient residence time and turbulence.			
Flue gas measures:			
Avoiding particle deposition by:			
– Soot cleaners, mechanical rappers, sonic or steam soot blowers.			Steam soot blowing can increase PCDD/F formation rates.
– Dust removal, generally in waste incinerators:	< 10	Medium	Removal of PCDD/F adsorbed onto particles. Removal methods of particles in hot flue gas streams used only in pilot plants.
– Fabric filters;	1–0.1	Higher	Use at temperatures < 150°C.
– Ceramic filters;	Low efficiency		Use at temperatures of 800–1000°C.
– Cyclones; and	Low efficiency	Medium	
– Electrostatic precipitation.	Medium efficiency		Use at a temperature of 450°C; promotion of the de novo synthesis of PCDD/F possible, higher NO_x emissions, reduction of heat recovery.

Table 1 (continued)

Management options	Emission level (%)[a]	Estimated costs	Management risks
Catalytic oxidation.			Use at temperatures of 800–1000°C. Separate gas phase abatement necessary.
Gas quenching.			
High-performance adsorption unit with added activated charcoal particles (electrodynamic venturi).			
Selective catalytic reduction (SCR).		High investment and low operating costs	NO_x reduction if NH_3 is added; high space demand, spent catalysts and residues of activated carbon (AC) or lignite coke (ALC) may be disposed of, catalysts can be reprocessed by manufacturers in most cases, AC and ALC can be combusted under strictly controlled conditions.
Different types of wet and dry adsorption methods with mixtures of activated charcoal, open-hearth coke, lime and limestone solutions in fixed bed, moving bed and fluidized bed reactors:			
– Fixed bed reactor, adsorption with activated charcoal or open-hearth coke; and	< 2 (0.1 ng TE/m^3)	High investment, medium operating costs	Removal of residuals; high demand of space.
– Entrained flow or circulating fluidized bed reactor with added activated coke/lime or limestone solutions and subsequent fabric filter.Removal of residuals.	< 10 (0.1 ng TE/m^3)	Low investment, medium operating costs	
Addition of H_2O_2.	2 – 5 (0.1 ng TE/m^3)	Low investment, low operating costs	

[a] Remaining emission compared to unreduced mode.

21. Medical waste incinerators may be a major source of PCDD/F in many countries. Specific medical wastes such as human anatomical parts, infected waste, needles, blood, plasma and cytostatica are treated as a special form of hazardous waste, while other medical wastes are frequently incinerated on-site in a batch operation. Incinerators operating with batch systems can meet the same requirements for PCDD/F reduction as other waste incinerators.

22. Parties may wish to consider adopting policies to encourage the incineration of municipal and medical waste in large regional facilities rather than in smaller ones. This approach may make the application of BAT more cost-effective.

23. The treatment of residuals from the flue-gas cleaning process. Unlike incinerator ashes, these residuals contain relatively high concentrations of heavy metals, organic pollutants (including PCDD/F), chlorides and sulphides. Their method of disposal, therefore, has to be well controlled. Wet scrubber systems in particular produce large quantities of acidic, contaminated liquid waste. Some special treatment methods exist. They include:

    (a) The catalytic treatment of fabric filter dusts under conditions of low temperatures and lack of oxygen;

    (b) The scrubbing of fabric filter dusts by the 3-R process (extraction of heavy metals by acids and combustion for destruction of organic matter);

    (c) The vitrification of fabric filter dusts;

    (d) Further methods of immobilization; and

    (e) The application of plasma technology.

B. Thermal processes in the metallurgical industry

24. Specific processes in the metallurgical industry may be important remaining sources of PCDD/F emissions. These are:

    (a) Primary iron and steel industry (e.g. blast furnaces, sinter plants, iron pelletizing);

    (b) Secondary iron and steel industry; and

    (c) Primary and secondary non-ferrous metal industry (production of copper).

PCDD/F emission control measures for the metallurgical industries are summarized in table 2.

25. Metal production and treatment plants with PCDD/F emissions can meet a maximum emission concentration of 0.1 ng TE/m^3 (if waste gas volume flow > 5000 m^3/h) using control measures.

Table 2: Emission reduction of PCDD/F in the metallurgical industry

Management options	Emission level (%)[a]	Estimated costs	Management risks
Sinter plants			
Primary measures:			
– Optimization/encapsulation of sinter conveying belts;		Low	Not 100% achievable
– Waste gas recirculation e.g. emission optimized sintering (EOS) reducing waste gas flow by ca. 35% (reduced costs of further secondary measures by the reduced waste gas flow), cap. 1 million Nm^3/h;	40	Low	
Secondary measures:			
– Electrostatic precipitation + molecular sieve;	Medium efficiency	Medium	
– Addition of limestone/activated carbon mixtures;	High efficiency (0.1 ng TE/m^3)	Medium	
– High-performance scrubbers – existing installation: AIRFINE (Voest Alpine Stahl Linz) since 1993 for 600 000 Nm^3/h; second installation planned in the Netherlands (Hoogoven) for 1998.	High efficiency emission reduction to 0.2-0.4 ng TE/m^3	Medium	0.1 ng TE/m^3 could be reached with higher energy demand; no existing installation.
Non-ferrous production (e.g. copper)			
Primary measures:			
– Pre-sorting of scrap, avoidance of feed material like plastics and PVC-contaminated scrap, stripping of coatings and use of chlorine-free insulating materials;		Low	
Secondary measures:			
– Quenching the hot waste gases;	High efficiency	Low	
– Use of oxygen or of oxygen-enriched air in firing, oxygen injection in the shaft kiln (providing complete combustion and minimization of waste gas volume);	5–7 (1.5–2 TE/m^3)	High	
– Fixed bed reactor or fluidized jet stream reactor by adsorption with activated charcoal or open-hearth coal dust;	(0.1 ng TE/m^3)	High	
– Catalytic oxidation; and	(0.1 ng TE/m^3)	High	
– Reduction of residence time in the critical region of temperature in the waste gas system.			
Iron and steel production			
Primary measures:			
– Cleaning of the scrap from oil prior to charging of production vessels;		Low	Cleaning solvents have to be used.
– Elimination of organic tramp materials such as oils, emulsions, greases, paint and plastics from feedstock cleaning;		Low	
– Lowering of the specific high waste gas volumes;		Medium	
– Separate collection and treatment of emissions from loading and discharging;		Low	
Secondary measures:			
– Separate collection and treatment of emissions from loading and discharging; and		Low	
– Fabric filter in combination with coke injection.	< 1	Medium	

Table 2 (continued)			
Secondary aluminium production			
Primary measures:			
– Avoidance of halogenated material (hexachloroethane);		Low	
– Avoidance of chlorine-containing lubricants (for instance chlorinated paraffins); and		Low	
– Clean-up and sorting of dirty scrap charges, e.g. by swarf decoating and drying, swim-sink separation techniques and whirling stream deposition;			
Secondary measures:			
– Single- and multi-stage fabric filter with added activation of limestone/ activated carbon in front of the filter;	< 1 (0.1 ng TE/m^3)	Medium/high	
– Minimization and separate removal and purification of differently contaminated waste gas flows;		Medium/high	
– Avoidance of particulate deposition from the waste gas and promotion of rapid passing of the critical temperature range; and		Medium/high	
– Improved pretreatment of aluminium scrap shredders by using swim-sink separation techniques and grading through whirling stream deposition.		Medium/high	

[a] Remaining emission compared to unreduced mode.

Sinter plants

26. Measurements at sinter plants in the iron and steel industry have generally shown PCDD/F emissions in the range of 0.4 to 4 ng TE/m^3. A single measurement at one plant without any control measures showed an emission concentration of 43 ng TE/m^3.

27. Halogenated compounds may result in the formation of PCDD/F if they enter sinter plants in the feed materials (coke breeze, salt content in the ore) and in added recycled material (e.g. millscale, blast furnace top gas dust, filter dusts and sludges from waste water treatment). However, similarly to waste incineration, there is no clear link between the chlorine content of the feed materials and emissions of PCDD/F. An appropriate measure may be the avoidance of contaminated residual material and de-oiling or degreasing of millscale prior to its introduction into the sinter plant.

28. The most effective PCDD/F emission reduction can be achieved using a combination of different secondary measures, as follows:

(a) Recirculating waste gas significantly reduces PCDD/F emissions. Furthermore, the waste gas flow is reduced significantly, thereby reducing the cost of installing any additional end-of-pipe control systems;

(b) Installing fabric filters (in combination with electrostatic precipitators in some cases) or electrostatic precipitators with the injection of activated carbon/open-hearth coal/limestone mixtures into the waste gas;

(c) Scrubbing methods have been developed which include pre-quenching of the waste gas, leaching by high-performance scrubbing and separation by drip deposition. Emissions of 0.2 to 0.4 ng TE/m^3 can be achieved. By adding suitable adsorption agents like lignite coal cokes/coal slack, an emission concentration of 0.1 ng TE/m^3 can be reached.

Primary and secondary production of copper

29. Existing plants for the primary and secondary production of copper can achieve a PCDD/F emission level of a few picograms to 2 ng TE/m^3 after flue-gas cleaning. A single copper shaft furnace emitted up to 29 ng TE/m^3 PCDD/F before optimization of the aggregates. Generally, there is a wide range of PCDD/F emission values from these plants because of the large differences in raw materials used in differing aggregates and processes.

30. Generally, the following measures are suitable for reducing PCDD/F emissions:

(a) Pre-sorting scrap;

(b) Pretreating scrap, for example stripping of plastic or PVC coatings, pretreating cable scrap using only cold/mechanical methods;

(c) Quenching hot waste gases (providing utilization of heat), to reduce residence time in the critical region of temperature in the waste gas system;

(d) Using oxygen or oxygen-enriched air in firing, or oxygen injection in the shaft kiln (providing complete combustion and minimization of waste gas volume);

(e) Adsorption in a fixed bed reactor or fluidized jet stream reactor with activated charcoal or open-hearth coal dust; and

(f) Catalytic oxidation.

Production of steel

31. PCDD/F emissions from converter steelworks for steel production and from hot blast cupola furnaces, electric furnaces and electric arc furnaces for the melting of cast iron are significantly lower than 0.1 ng TE/m^3. Cold-air furnaces and rotary tube furnaces (melting of cast iron) have higher PCDD/F emissions.

32. Electric arc furnaces used in secondary steel production can achieve an emission concentration value of 0.1 ng TE/m^3 if the following measures are used:

(a) Separate collection of emissions from loading and discharging; and

(b) Use of a fabric filter or an electrostatic precipitator in combination with coke injection.

33. The feedstock to electric arc furnaces often contains oils, emulsions or greases. General primary measures for PCDD/F reduction can be sorting, de-oiling and de-coating of scraps, which may contain plastics, rubber, paints, pigments and vulcanizing additives.

Smelting plants in the secondary aluminium industry

34. PCDD/F emissions from smelting plants in the secondary aluminium industry are in the range of approximately 0.1 to 14 ng TE/m^3. These levels depend on the type of smelting aggregates, materials used and waste gas purification techniques employed.

35. In summary, single- and multi-stage fabric filters with the addition of limestone/activated carbon/open-hearth coal in front of the filter meet the emission concentration of 0.1 ng TE/m^3, with reduction efficiencies of 99%.

36. The following measures can also be considered:

(a) Minimizing and separately removing and purifying differently contaminated waste gas flows;

(b) Avoiding waste gas particle deposition;

(c) Rapidly passing the critical temperature range;

(d) Improving the pre-sorting of scrap aluminium from shredders by using swim-sink separation techniques and grading through whirling stream deposition; and

(e) Improving the pre-cleaning of scrap aluminium by swarf decoating and swarf drying.

37. Options (d) and (e) are important because it is unlikely that modern fluxless smelting techniques (which avoid halide salt fluxes) will be able to handle the low-grade scrap that can be used in rotary kilns.

38. Discussions are continuing under the Convention for the Protection of the Marine Environment of the North-east Atlantic regarding the revision of an earlier recommendation to phase out the use of hexachloroethane in the aluminium industry.

39. The melt can be treated using state-of-the-art technology, for example with nitrogen/chlorine mixtures in the ratio of between 9:1 and 8:2, gas injection equipment for fine dispersion and nitrogen pre- and post-flushing and vacuum degreasing. For nitrogen/chlorine mixtures, a PCDD/F emission concentration of about 0.03 ng TE/m^3 was measured (as compared to values of > 1 ng TE/m^3 for treatment with chlorine only). Chlorine is required for the removal of magnesium and other undesired components.

C. Combustion of fossil fuels in utility and industrial boilers

40. In the combustion of fossil fuels in utility and industrial boilers (>50 MW thermal capacity), improved energy efficiency and energy conservation will result in a decline in the emissions of all pollutants because of reduced fuel requirements. This will also result in a reduction in PCDD/F emissions. It would not be cost-effective to remove chlorine from coal or oil, but in any case the trend towards gas-fired stations will help to reduce PCDD/F emissions from this sector.

41. It should be noted that PCDD/F emissions could increase significantly if waste material (sewage sludge, waste oil, rubber wastes, etc.) is added to the fuel. The combustion of wastes for energy supply should be undertaken only in installations using waste gas purification systems with highly efficient PCDD/F reduction (described in section A above).

42. The application of techniques to reduce emissions of nitrogen oxides, sulphur dioxide and particulates from the flue gas can also remove PCDD/F emissions. When using these techniques, PCDD/F removal efficiencies will vary from plant to plant. Research is ongoing to develop PCDD/F removal techniques, but until such techniques are available on an industrial scale, no best available technique is identified for the specific purpose of PCDD/F removal.

D. Residential combustion

43. The contribution of residential combustion appliances to total emissions of PCDD/F is less significant when approved fuels are properly used. In addition, large regional differences in emissions can occur due to the type and quality of fuel, geographical appliance density and usage.

44. Domestic fireplaces have a worse burn-out rate for hydrocarbons in fuels and waste gases than large combustion installations. This is especially true if they use solid fuels such as wood and coal, with PCDD/F emission concentrations in the range of 0.1 to 0.7 ng TE/m^3.

45. Burning packing material added to solid fuels increases PCDD/F emissions. Even though it is prohibited in some countries, the burning of rubbish and packing material may occur in private households. Due to increasing disposal charges, it must be recognized that household waste materials are being burned in domestic firing installations. The use of wood with the addition of waste packing material can lead to an increase in PCDD/F emissions from 0.06 ng TE/m^3 (exclusively wood) to 8 ng TE/m^3 (relative to 11% O_2 by volume). These results have been confirmed by inves-

tigations in several countries in which up to 114 ng TE/m^3 (with respect to 13% oxygen by volume) was measured in waste gases from residential combustion appliances burning waste materials.

46. The emissions from residential combustion appliances can be reduced by restricting the input materials to good-quality fuel and avoiding the burning of waste, halogenated plastics and other materials. Public information programmes for the purchasers/operators of residential combustion appliances can be effective in achieving this goal.

E. Firing installations for wood (<50 MW capacity)

47. Measurement results for wood-firing installations indicate that PCDD/F emissions above 0.1 ng TE/m^3 occur in waste gases especially during unfavourable burn-out conditions and/or when the substances burned have a higher content of chlorinated compounds than normal untreated wood. An indication of poor firing is the total carbon concentration in the waste gas. Correlations have been found between CO emissions, burn-out quality and PCDD/F emissions. Table 3 summarizes some emission concentrations and factors for wood-firing installations.

48. The combustion of urban waste wood (demolition wood) in moving grates leads to relatively high PCDD/F emissions, compared to non-waste wood sources. A primary measure for emission reduction is to avoid the use of treated waste wood in wood-firing installations. Combustion of treated wood should be undertaken only in installations with the appropriate flue-gas cleaning to minimize PCDD/F emissions.

Table 3: Quantity-related emission concentrations and factors for wood-firing installations

Fuel	Emission concentration (ng TE/m^3)	Emission factor (ng TE/kg)	Emission factor (ng/GJ)
Natural wood (beech tree)	0.02–0.10	0.23–1.3	12–70
Natural wood chips from forests	0.07–0.21	0.79–2.6	43–140
Chipboard	0.02–0.08	0.29–0.9	16–50
Urban waste wood	2.7–14.4	26–173	1400–9400
Residential waste	114	3230	
Charcoal	0.03		

V. CONTROL TECHNIQUES FOR THE REDUCTION OF PAH EMISSIONS

A. Coke production

49. During coke production, PAHs are released into the ambient air mainly:

(a) When the oven is charged through the charging holes;

(b) By leakages from the oven door, the ascension pipes and the charging hole lids; and

(c) During coke pushing and coke cooling.

50. Benzo(a)pyrene (BaP) concentration varies substantially between the individual sources in a coke battery. The highest BaP concentrations are found on the top of the battery and in the immediate vicinity of the doors.

51. PAH from coke production can be reduced by technically improving existing integrated iron and steel plants. This might entail the closure and replacement of old coke batteries and the general reduction in coke production, for instance by injecting high-value coal in steel production.

52. A PAH reduction strategy for coke batteries should include the following technical measures:

(a) Charging the coke ovens:

- Particulate matter emission reduction when charging the coal from the bunker into the charging cars;
- Closed systems for coal transfer when coal pre-heating is used;
- Extraction of filling gases and subsequent treatment, either by passing the gases into the adjacent oven or by passing via a collecting main to an incinerator and a subsequent dedusting device. In some cases the extracted filling gases may be burned on the charging cars, but the environmental performance and safety of these charging-car-based systems is less satisfactory. Sufficient suction should be generated by steam or water injection in the ascension pipes;

(b) Emissions at charging hole lids during coking operation should be avoided by:

- Using charging hole lids with highly efficient sealing;
- Luting the charging hole lids with clay (or equally effective material) after each charging operation;
- Cleaning the charging hole lids and frames before closing the charging hole;
- Keeping oven ceilings free from coal residuals;

(c) Ascension pipe lids should be equipped with water seals to avoid gas and tar emissions, and the proper operation of the seals should be maintained by regular cleaning;

(d) Coke oven machinery for operating the coke oven doors should be equipped with systems for cleaning the seals' surfaces on the oven door frames and oven doors;

(e) Coke oven doors:

- Highly effective seals should be used (e.g. spring-loaded membrane doors);
- Seals on the oven doors and door frames should be cleaned thoroughly at every handling operation;
- Doors should be designed in a manner that allows the installation of particulate matter extraction systems with connection to a dedusting device (via a collecting main) during pushing operations;

(f) The coke transfer machine should be equipped with an integrated hood, stationary duct and stationary gas cleaning system (preferably a fabric filter);

(g) Low-emission procedures should be applied for coke cooling, e.g. dry coke cooling. The replacement of a wet quenching process by dry coke cooling should be preferred, so long as the generation of waste water is avoided by using a closed circulation system. The dusts generated when dry quenched coke is handled should be reduced.

53. A coke-making process referred to as "non-recovery coke-making" emits significantly less PAH than the more conventional by-product recovery process. This is because the ovens operate under negative pressure, thereby eliminating leaks to the atmosphere from the coke oven doors. During coking, the raw coke oven gas is removed from the ovens by a natural draught, which maintains a negative pressure in the ovens. These ovens are not designed to recover the chemical by-products from raw coke oven gas. Instead, the offgases from the coking process (including PAH) are burned efficiently at high temperatures and with long residence times. The waste heat from this incineration is used to provide the energy for coking, and excess heat may be used to generate steam. The economics of this type of coking operation may require a cogeneration unit to produce electricity from the excess steam. Currently there is only one non-recovery coke plant operating

in the United States, and one is in operation in Australia. The process is basically a horizontal sole-flue non-recovery coke oven with an incineration chamber adjoining two ovens. The process provides for alternate charging and coking schedules between the two ovens. Thus, one oven is always providing the incineration chamber with coke gases. The coke gas combustion in the incineration chamber provides the necessary heat source. The incineration chamber design provides the necessary dwell time (approximately 1 second) and high temperatures (minimum of 900°C).

54. An effective monitoring programme for leakages from coke oven door seals, ascension pipes and charging hole lids should be operated. This implies the monitoring and recording of leakages and immediate repair or maintenance. A significant reduction of diffuse emissions can thus be achieved.

55. Retrofitting existing coke batteries to facilitate condensation of flue gases from all sources (with heat recovery) results in a PAH reduction of 86% to more than 90% in air (without regard to waste water treatment). Investment costs can be amortized in five years, taking into account recovered energy, heated water, gas for synthesis and saved cooling water.

56. Increasing coke oven volumes results in a decrease in the total number of ovens, oven door openings (amount of pushed ovens per day), number of seals in a coke battery and consequently PAH emissions. Productivity increases in the same way by decreasing operating and personnel costs.

57. Dry coke cooling systems require a higher investment cost than wet methods. Higher operating costs can be compensated for by heat recovery in a process of pre-heating the coke. The energy efficiency of a combined dry coke cooling/coal pre-heating system rises from 38 to 65%. Coal pre-heating boosts productivity by 30%. This can be raised to 40% because the coking process is more homogeneous.

58. All tanks and installations for the storage and treatment of coal tar and coal tar products must be equipped with an efficient vapour recovery return and/or vapour destruction system. The operating costs of vapour destruction systems can be reduced in an autothermal after-burning mode if the concentration of the carbon compounds in the waste is high enough.

59. Table 4 summarizes PAH emission reduction measures in coke production plants.

Table 4: PAH emission control for coke production

Management options	Emission level (%)[a]	Estimated costs	Management risks
Retrofitting of old plants with condensation of emitted flue gases from all sources includes the following measures:	Total < 10 without waste water)	High	Emissions to waste water by wet quenching are very high. This method should be applied only if the water is reused in a closed cycle.
– Evacuation and after-burning of the filling gases during charging of ovens or passing the gases into the adjacent oven as far as possible;	5	(Amortization of investment costs, taking into account energy recovery, heated water, gas for synthesis and saved cooling water, may be 5 years.)	
– Emissions at charging hole lids should be avoided as far as possible, e.g. by special hole lid construction and highly effective sealing methods. Coke oven doors with highly effective sealings should be used. Cleaning of charging hole lids and frames before closing the charging hole;	< 5		
– Waste gases from pushing operations should be collected and fed to a dedusting device;	< 5		
– Quenching during coke cooling by wet methods only if properly applied without waste water.			
Low emission procedures for coke cooling, e.g. dry coke cooling.		Higher investment costs than for wet cooling (but lower costs by preheating of coke and use of waste heat.)	
Increasing the use of high-volume ovens to lower the number of openings and the surface of sealing areas.	Considerable	Investment about 10% higher than conventional plants.	In most cases total retrofitting or the installation of a new cokery is needed.

[a] Remaining emission compared to unreduced mode.

B. Anode production

60. PAH emissions from anode production have to be dealt with in a similar fashion as those from coke production.

61. The following secondary measures for emission reduction of PAH-contaminated dust are used:

(a) Electrostatic tar precipitation;

(b) Combination of a conventional electrostatic tar filter with a wet electrostatic filter as a more efficient technical measure;

(c) Thermal after-burning of the waste gases; and

(d) Dry scrubbing with limestone/petroleum coke or aluminum oxide (Al_2O_3).

62. The operating costs in thermal after-burning can be reduced in an autothermal after-burning mode if the concentration of carbon compounds in the waste gas is high enough. Table 5 summarizes PAH emission control measures for anode production.

Table 5: PAH emission control for anode production

Management options	Emission level (%)[a]	Estimated costs	Management risks
Modernization of old plants by reducing diffuse emissions with the following measures: – Reduction of leakages; – Installation of flexible sealants at the oven doors; – Evacuation of filling gases and subsequent treatment, either by passing the gases into the adjacent oven or by passing the gases via a collecting main to an incinerator and a subsequent dedusting device on the ground; – Operating and coke oven cooling systems; and – Evacuation and purification of particulate emissions from coke.	3–10	High	
Established technologies for anode production in the Netherlands: – New kiln with dry scrubber (with limestone/petroleum cokes or with aluminium) – Effluent recycling in paste unit.	45–50		Implemented in the Netherlands in 1990. Scrubbing with limestone or petroleum cokes is effective for reducing PAH; with aluminium not known.
BAT: – Electrostatic dust precipitation; and	2–5		Regular cleaning of tar is needed.
– Thermal after-burning.	15	Lower operating costs in an auto-thermal mode.	Operating in autothermal mode only if the concentration of PAH in the waste gas is high.

[a] Remaining emission compared to unreduced mode.

C. Aluminium industry

63. Aluminium is produced from aluminium oxide (Al_2O_3) by electrolysis in pots (cells) electrically connected in series. Pots are classified as prebake or Soederberg pots, according to the type of the anode.

64. Prebake pots have anodes consisting of calcined (baked) carbon blocks, which are replaced after partial consumption. Soederberg anodes are baked in the cell, with a mixture of petroleum coke and coal tar pitch acting as a binder.

65. Very high PAH emissions are released from the Soederberg process. Primary abatement measures include modernization of existing plants and optimization of the processes, which could reduce PAH emissions by 70–90%. An emission level of 0.015 kg B(a)P/tonne of Al could be reached. Replacing the existing Soederberg cells by prebaked ones would require major reconstruction of the existing process, but would nearly eliminate the PAH emissions. The capital costs of such replacements are very high.

66. Table 6 summarizes PAH emission control measures for aluminium production.

Table 6: PAH emission control for aluminium production using the Soederberg process

Management options	Emission level (%)[a]	Estimated costs	Management risks
Replacement of Soederberg electrodes by:	3–30	Higher costs for electrodes about US$ 800 million	Soederberg electrodes are cheaper than prebaked ones, because no anode baking plant is needed. Research is in progress, but expectations are low. Efficient operation and monitoring of emission are essential parts of emission control. Poor performance could cause significant diffuse emissions.
– Prebaked electrodes (avoidance of pitch binders);			
– Inert anodes.			
Closed prebake systems with point feeding of alumina and efficient process control, hoods covering the entire pot and allowing efficient collection of air pollutants.	1–5		
Soederberg pot with vertical contact bolts and waste gas collection systems.	> 10	Retrofit of Soederberg technology by encapsulation and modified feeding point: US$ 50,000 – 10,000 per furnace	Diffuse emissions occur during feeding, crust breaking and lifting of iron contact bolts to a higher position.
Sumitomo technology (anode briquettes for VSS process).		Low – medium	
Gas cleaning:			
– Electrostatic tar filters;	2–5	Low	High rate of sparking and electrical arcing;
– Combination of conventional electrostatic tar filters with electrostatic wet gas cleaning;	> 1	Medium	Wet gas-cleaning generates waste water.
– Thermal after-burning.			
Pitch use with higher melting point (HSS + VSS).	High	Medium	
Use of dry scrubbing in existing HSS + VSS plants.		Low – medium Medium – high	

[a] Remaining emission compared to unreduced mode.

D. Residential combustion

67. PAH emissions from residential combustion can be detected from stoves or open fireplaces especially when wood or coal is used. Households could be a significant source of PAH emissions. This is the result of the use of fireplaces and small firing installations burning solid fuels in households. In some countries the usual fuel for stoves is coal. Coal-burning stoves emit less PAH than wood-burning ones, because of their higher combustion temperatures and more consistent fuel quality.

68. Furthermore, combustion systems with optimized operation characteristics (e.g. burning rate) effectively control PAH emissions from residential combustion. Optimized combustion conditions include optimized combustion chamber design and optimized supply of air. There are several techniques which optimize combustion conditions and reduce emissions. There is a significant difference in emissions between different techniques. A modern wood-fired boiler with a water accumulation tank, representing BAT, reduces the emission by more than 90% compared to an outdated boiler without a water accumulation tank. A modern boiler has three different zones: a fireplace for the gasification of wood, a gas combustion zone with ceramics or other material which allow temperatures of some 1000°C, and a convection zone. The convection part where the water absorbs the heat should be sufficiently long and effective so that the gas temperature can be reduced from 1000°C to 250°C or less. There are also several techniques to supplement old and outdated boilers, for example with water accumulation tanks, ceramic inserts and pellet burners.

69. Optimized burning rates are accompanied by low emissions of carbon monoxide (CO), total hydrocarbons (THC) and PAHs. Setting limits (type approval regulations) on the emission of CO and THCs also affects the emission of PAHs. Low emission of CO and THCs results in low emission of PAHs. Since measuring PAH is far more expensive than measuring CO, it is more cost-effective to set a limit value for CO and THCs. Work is continuing on a proposal for a CEN standard for coal- and wood-fired boilers up to 300 kW (see table 7).

Table 7: Draft CEN standards in 1997

Class		3	2	1	3	2	1	3	2	1
	Effect (kW)	CO			THC			Particulates		
Manual	< 50	5000	8000	25000	150	300	2000	150/125	180/150	200/180
	50–150	2500	5000	12500	100	200	1500	150/125	180/150	200/180
	>150–300	1200	2000	12500	100	200	1500	150/125	180/150	200/180
Auto-matic	< 50	3000	5000	15000	100	200	1750	150/125	180/150	200/180
	50–150	2500	4500	12500	80	150	1250	150/125	180/150	200/180
	>150–300	1200	2000	12500	80	150	1250	150/125	180/150	200/180

Note: Emission levels in mg/m^3 at 10% O_2.

70. Emissions from residential wood combustion stoves can be reduced:

(a) For existing stoves, by public information and awareness programmes regarding proper stove operation, the use of untreated wood only, fuel preparation procedures and the correct seasoning of wood for moisture content; and

(b) For new stoves, by the application of product standards as described in the draft CEN standard (and equivalent product standards in the United States and Canada).

71. More general measures for PAH emission reduction are those related to the development of centralized systems for households and energy conservation such as improved thermal insulation to reduce energy consumption.

72. Information is summarized in table 8.

Table 8: PAH emission control for residential combustion

Management options	Emission level (%)[a]	Estimated costs	Management risks
Use of dried coal and wood (dried wood is wood stored for at least 18–24 months).	High effectiveness		
Use of dried coal.	High effectiveness		
Design of heating systems for solid fuels to provide optimized complete burning conditions: – Gasification zone; – Combustion with ceramics; – Effective convection zone.	55	Medium	Negotiations have to be held with stove manufacturers to introduce an approval scheme for stoves.
Water accumulation tank.			
Technical instructions for efficient operation.	30 – 40	Low	Might be achieved also by vigorous public education, combined with practical instructions and stove type regulation.
Public information programme concerning the use of wood-burning stoves.			

[a] Remaining emission compared to unreduced mode.

E. Wood preservation installations

73. Wood preservation with PAH-containing coal-tar products may be a major source of PAH emissions to the air. Emissions may occur during the impregnation process itself as well as during storage, handling and use of the impregnated wood in the open air.

74. The most widely used PAH-containing coal-tar products are carbolineum and creosote. Both are coal tar distillates containing PAHs for the protection of timber (wood) against biological attack.

75. PAH emissions from wood preservation, installations and storage facilities may be reduced using several approaches, implemented either separately or in combination, such as:

(a) Requirements on storage conditions to prevent pollution of soil and surface water by leached PAH and contaminated rainwater (e.g. storage sites impermeable to rainwater, roof cover, reuse of contaminated water for the impregnation process, quality demands for the material produced);

(b) Measures to reduce atmospheric emissions at impregnation plants (e.g. the hot wood should be cooled down from 90°C to 30°C at least before transport to storage sites. However, an alternative method using pressure steam under vacuum conditions to impregnate the wood with creosote should be highlighted as BAT);

(c) The optimum loading of wood preservative, which gives adequate protection to the treated wood product in situ, can be regarded as a BAT as this will reduce the demand for replacements, thereby reducing emissions from the wood preservation installations;

d) Using wood preservation products with a lower content of those PAHs that are POPs:

- Possibly using modified creosote which is taken to be a distillation fraction boiling between 270°C and 355°C, which reduces both the emissions of the more volatile PAHs and the heavier, more toxic PAHs;

- Discouraging the use of carbolineum would also reduce PAH emissions;

(e) Evaluating and then using, as appropriate, alternatives, such as those in table 9, that minimize reliance on PAH-based products.

76. Burning of impregnated wood gives rise to PAH emissions and other harmful substances. If burning does take place, it should be done in installations with adequate abatement techniques.

Table 9: Possible alternatives to wood preservation involving PAH-based products

Management options	Management risks
Use of alternative materials for application in construction: – Sustainably produced hardwood (riverbanks, fences, gates); – Plastics (horticulture posts); – Concrete (railway sleepers); – Replacement of artificial constructions by natural ones (such as riverbanks, fences, etc.); – Use of untreated wood. There are several alternative wood-preserving techniques in development which do not include impregnation with PAH-based products.	Other environmental problems have to be evaluated such as: – Availability of suitably produced wood; – Emissions caused by the production and disposal of plastics, especially PVC.

Annex VI

TIMESCALES FOR THE APPLICATION OF LIMIT VALUES AND BEST AVAILABLE TECHNIQUES TO NEW AND EXISTING STATIONARY SOURCES

The timescales for the application of limit values and best available techniques are:

(a) For new stationary sources: two years after the date of entry into force of the present Protocol;

(b) For existing stationary sources: eight years after the date of entry into force of the present Protocol. If necessary, this period may be extended for specific existing stationary sources in accordance with the amortization period provided for by national legislation.

Annex VII

RECOMMENDED CONTROL MEASURES FOR REDUCING EMISSIONS OF PERSISTENT ORGANIC POLLUTANTS FROM MOBILE SOURCES

1. Relevant definitions are provided in annex III to the present Protocol.

I. ACHIEVABLE EMISSION LEVELS FOR NEW VEHICLES AND FUEL PARAMETERS

A. Achievable emission levels for new vehicles

2. Diesel-fuelled passenger cars

Year	Reference mass	Limit values	
		Mass of hydrocarbons and NO_x	Mass of particulates
01.1.2000	All	0.56 g/km	0.05 g/km
01.1.2005 (indicative)	All	0.3 g/km	0.025 g/km

3. Heavy-duty vehicles

Year/test cycle	Limit values	
	Mass of hydrocarbons	Mass of particulates
01.1.2000/ESC cycle	0.66 g/kWh	0.1 g/kWh
01.1.2000/ETC cycle	0.85 g/kWh	0.16 g/kWh

4. Off-road engines

Step 1 (reference: ECE regulation No.96)*

Net power (P) (kW)	Mass of hydrocarbons	Mass of particulates
$P \geq 130$	1.3 g/kWh	0.54 g/kWh
$75 \geq P \leq 130$	1.3 g/kWh	0.70 g/kWh
$37 \geq P \leq 75$	1.3 g/kWh	0.85 g/kWh

* "Uniform provisions concerning the approval of compression ignition (C.I.) engines to be installed in agricultural and forestry tractors with regard to the emissions of pollutants by the engine." The regulation came into force on 15 December 1995 and its amendment came into force on 5 March 1997.

Step 2

Net power (P) (kW)	Mass of hydrocarbons	Mass of particulates
$0 \leq P < 18$		
$18 \leq P < 37$	1.5 g/kWh	0.8 g/kWh
$37 \leq P < 75$	1.3 g/kWh	0.4 g/kWh
$75 \leq P < 130$	1.0 g/kWh	0.3 g/kWh
$130 \leq P < 560$	1.0 g/kWh	0.2 g/kWh

B. Fuel parameters

5. Diesel fuel

Parameter	Unit	Limits		Test method
		Minimum value (2000/2005)*	Maximum value (2000/2005)*	
Cetane number		51/N.S.	–	ISO 5165
Density at 15°C	kg/m^3	–	845/N.S.	ISO 3675
Evaporated 95%	°C	–	360/N.S.	ISO 3405
PAH	mass %	–	11/N.S.	prIP 391
Sulphur	ppm	–	350/50**	ISO 14956

N.S.: Not specified.
* 1 January of year specified.
** Indicative value.

II. RESTRICTION OF HALOGENATED SCAVENGERS, ADDITIVES IN FUELS AND LUBRICANTS

6. In some countries, 1,2-dibromomethane in combination with 1,2-dichloromethane is used as a scavenger in leaded petrol. Moreover, PCDD/F are formed during the combustion process in the engine. The application of three-way catalytic converters for cars will require the use of unleaded fuel. The addition of scavengers and other halogenated compounds to petrol and other fuels and to lubricants should be avoided as far as possible.

7. Table 1 summarizes measures for PCDD/F emission control from the exhaust from road transport motor vehicles.

Table 1: PCDD/F emission control for the exhaust from road transport motor vehicles

Management options	Management risks
Avoiding adding halogenated compounds to fuels – 1,2-dichloromethane – 1,2-dichloromethane and corresponding bromo compounds as scavengers in leaded fuels for spark ignition engines (Bromo compounds may lead to the formation of brominated dioxins or furans.) Avoiding halogenated additives in fuels and lubricants.	Halogenated scavengers will be phased out as the market for leaded petrol shrinks because of the increasing use of closed-loop three-way catalytic converters with spark ignition engines.

III. CONTROL MEASURES FOR EMISSIONS OF POPs FROM MOBILE SOURCES

A. POP emissions from motor vehicles

8. POP emissions from motor vehicles occur as particle-bound PAHs emitted from diesel-fuelled vehicles. To a minor extent PAHs are also emitted by petrol-fuelled vehicles.

9. Lubrication oil and fuels may contain halogenated compounds as a result of additives or the production process. These compounds may be transformed during combustion into PCDD/F and subsequently emitted with the exhaust gases.

B. Insection and Maintenance

10. For diesel-fuelled mobile sources, the effectiveness of the control of emissions of PAHs may be ensured through programmes to test the mobile sources periodically for particulate emissions, opacity during free acceleration, or equivalent methods.

11. For petrol-fuelled mobile sources, the effectiveness of the control of emissions of PAHs (in addition to other exhaust components) may be ensured through programmes to test periodically the fuel metering and the efficiency of the catalytic converter.

C. Techniques to control PAH emissions from diesel- and petrol-fuelled motor vehicles

1. General aspects of control technologies

12. It is important to ensure that vehicles are designed to meet emission standards while in service. This can be done by ensuring conformity of production, lifetime durability, warranty of emission-control components, and recall of defective vehicles. For vehicles in use, continued emission control performance can be ensured by an effective inspection and maintenance programme.

2. Technical measures for emission control

13. The following measures to control PAH emissions are important:

(a) Fuel-quality specifications and engine modifications to control emissions before they are formed (primary measures); and

(b) Addition of exhaust treatment systems, e.g. oxidizing catalysts or particle traps (secondary measures).

(a) Diesel engines

14. Diesel-fuel modification can yield two benefits: a lower sulphur content reduces emissions of particles and increases the conversion efficiency of oxidizing catalysts, and the reduction in di- and tri-aromatic compounds reduces the formation and emission of PAHs.

15. A primary measure to reduce emissions is to modify the engine to achieve more complete combustion. Many different modifications are in use. In general, vehicle exhaust composition is influenced by changes in combustion chamber design and by higher fuel injection pressures. At present, most diesel engines rely on mechanical engine control systems. Newer engines increasingly use computerized electronic control systems with greater potential flexibility in controlling emissions. Another technology to control emissions is the combined technology of turbocharging and intercooling. This system is successful in reducing NO_x as well as increasing fuel economy and power output. For heavy- and light-duty engines the use of intake manifold tuning is also a possibility.

16. Controlling the lubricating oil is important to reduce particulate matter (PM), as 10 to 50% of particulate matter is formed from engine oil. Oil consumption can be reduced by improved engine manufacturing specifications and improved engine seals.

17. Secondary measures to control emissions are additions of exhaust treatment systems. In general, for diesel engines the use of an oxidizing catalyst in combination with a particulate filter has been shown to be effective in reducing PAH emissions. A particle trap oxidizer is being evaluated. It is located in the exhaust system to trap PM and can provide some regeneration of the filter by burning the collected PM, through electrical heating of the system or some other means of regeneration. For proper regeneration of passive system traps during normal operation, a burner-assisted regeneration system or the use of additives is required.

(b) Petrol engines

18. PAH-reduction measures for petrol-fuelled engines are primarily based on the use of a closed-loop three-way catalytic converter, which reduces PAHs as part of the HC emission reductions.

19. Improved cold start behaviour reduces organic emissions in general and PAHs in particular (for instance start-up catalysts, improved fuel evaporation/atomization, heated catalysts).

20. Table 2 summarizes measures for PAH emission control from the exhaust from road transport motor vehicles.

Table 2: PAH emission control for the exhaust from road transport motor vehicles

Management options	Emission level (%)	Management risks
Spark ignition engines:		
– Closed-loop three-way catalytic converter,	10–20	Availability of unleaded petrol.
– Catalysts for reducing cold start emissions.	5–15	Commercially available in some countries.
Fuel for spark ignition engines:		Availability of refinery capacity.
– Reduction of aromatics,		
– Reduction of sulphur.		
Diesel engines:	20–70	
– Oxidizing catalyst,		
– Trap oxidizer/particulate filter.		
Diesel fuel modification:		
– Reduction of sulphur to reduce particulate emissions.		Availability of refinery capacity.
Improvement of diesel engine specifications:		
– Electronic control system, injection rate adjustment and high-pressure fuel injection,		Existing technologies.
– Turbocharging and intercooling,		
– Exhaust gas recirculation.		

Annex VIII

MAJOR STATIONARY SOURCE CATEGORIES

I. INTRODUCTION

Installations or parts of installations for research, development and the testing of new products are not covered by this list. A more complete description of the categories may be found in annex V.

II. LIST OF CATEGORIES

Category	Description of the category
1	Incineration, including co-incineration, of municipal, hazardous or medical waste, or of sewage sludge.
2	Sinter plants.
3	Primary and secondary production of copper.
4	Production of steel.
5	Smelting plants in the secondary aluminium industry.
6	Combustion of fossil fuels in utility and industrial boilers with a thermal capacity above 50 MW_{th}.
7	Residential combustion.
8	Firing installations for wood with a thermal capacity below 50 MW_{th}.
9	Coke production.
10	Anode production.
11	Aluminium production using the Soederberg process.
12	Wood preservation installations, except for a Party for which this category does not make a significant contribution to its total emissions of PAH (as defined in annex III).

Amendments (new Annex V and Appendix 3) on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Environment of the North-East Atlantic (OSPAR Convention), Sintra, 1998

Done at Sintra 23 July 1998

Entered into force (not in force)

Depositary: France

Primary source citation: Copy of text provided by the Secretariat of the Convention for the Protection of the Marine Environment of the North-East Atlantic

RECALLING the welcome in the Final Declaration of the Ministerial Meeting of the Oslo and Paris Commissions, 21-22 September 1992, for the possibility under the 1992 OSPAR Convention of addressing matters relating to the protection of the marine environment other than those relating to the prevention and elimination of pollution, and for the possibility of taking any necessary measures on these matters by the adoption of new Annexes to that Convention in the future;

RECALLING the Recitals of the 1992 OSPAR Convention;

RECALLING Article 16 and 18 of that Convention, which provide the procedure for the proposal, adoption and entry into force of new Annexes and of new Appendixes to that Convention;

RECALLING the United Nations Convention on the Law of the Sea, in particular the provisions relating to navigation and the exploitation of natural resources;

RECALLING the provisions of other global and regional agreements on the protection and conservation of marine ecosystems and biological diversity;

RECALLING the importance of coordination and harmonisation of work in different forums for the protection of marine species and their habitats;

RECALLING the significant differences which exist between:

a. the ecological conditions of the maritime area;

b. the impacts of human activities affecting these conditions;

in the different regions and sub-regions covered by the 1992 OSPAR Convention;

RECALLING the fact that certain Contracting Parties are not coastal states bordering the maritime area;

THE CONTRACTING PARTIES TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTHEAST ATLANTIC ADOPT ANNEX V AND APPENDIX 3 TO THE CONVENTION

AND FURTHER DECIDE THAT:

a. programmes or measures under this new Annex shall avoid duplicating action which is already prescribed by other international conventions and the subject of appropriate measures agreed by other international organisations; and

b. before a programme or measure is adopted under this new Annex, consideration shall be given to whether action could be taken more appropriately under some other international convention or arrangement.

ANNEX V

On the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area

ARTICLE 1

For the purposes of this Annex and of Appendix 3 the definitions of "biological diversity", "ecosystem" and "habitat" are those contained in the Convention on Biological Diversity of 5 June 1992.

ARTICLE 2

In fulfilling their obligation under the Convention to take, individually and jointly, the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected, as well as their obligation under the Convention on Biological Diversity of 5 June 1992 to develop strategies, plans or programmes for the conservation and sustainable use of biological diversity, Contracting Parties shall:

a. take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area, and to restore, where practicable, marine areas which have been adversely affected; and

b. cooperate in adopting programmes and measures for those purposes for the control of the human activities identified by the application of the criteria in Appendix 3.

ARTICLE 3

1. For the purposes of this Annex, it shall *inter alia* be the duty of the Commission:

   a. to draw up programmes and measures for the control of the human activities identified by the application of the criteria in Appendix 3;

   b. in doing so:

      (i) to collect and review information on such activities and their effects on ecosystems and biological diversity;

      (ii) to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to particular species or habitats;

      (iii) subject to Article 4 of this Annex, to consider aspects of national strategies and guidelines on the sustainable use of components of biological diversity of the maritime area as they affect the various regions and sub-regions of that area;

      (iv) subject to Article 4 of this Annex, to aim for the application of an integrated ecosystem approach.

   c. also in doing so, to take account of programmes and measures adopted by Contracting Parties for the protection and conservation of ecosystems within waters under their sovereignty or jurisdiction.

2. In the adoption of such programmes and measures, due consideration shall be given to the question whether any particular programme or measure should apply to all, or a specified part, of the maritime area.

ARTICLE 4

1. In accordance with the penultimate recital of the Convention, no programme or measure concerning a question relating to the management of fisheries shall be adopted under this Annex. However where the Commission considers that action is desirable in relation to such a question, it shall draw that question to the attention of the authority or international body competent for that question. Where action within the competence of the Commission is desirable to complement or support action by those authorities or bodies, the Commission shall endeavour to cooperate with them.

2. Where the Commission considers that action under this Annex is desirable in relation to a question concerning maritime transport, it shall draw that question to the attention of the International Maritime Organisation. The Contracting Parties who are members of the International Maritime Organisation shall endeavour to cooperate within that Organisation in order to achieve an appropriate response, including in relevant cases that Organisation's agreement to regional or local action, taking account of any guidelines developed by that Organisation on the designation of special areas, the identification of particularly sensitive areas or other matters.

APPENDIX 3

Criteria for Identifying Human Activities for the Purpose of Annex V

1. The criteria to be used, taking into account regional differences, for identifying human activities for the purposes of Annex V are:

a. the extent, intensity and duration of the human activity under consideration;

b. actual and potential adverse effects of the human activity on specific species, communities and habitats;

c. actual and potential adverse effects of the human activity on specific ecological processes;

d. irreversibility or durability of these effects.

2. These criteria are not necessarily exhaustive or of equal importance for the consideration of a particular activity.

MULTILATERAL

POLLUTION OF THE ENVIRONMENT

NON-BINDING

Memorandum of Understanding on Port State Control in the Asia-Pacific Region, Tokyo, 1993

Done at Tokyo 1 December 1993

Primary source citation: Copy of text provided by the United Nations

MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE ASIA PACIFIC REGION

The Maritime Authorities of

Australia

Canada

People's Republic of China

Fiji

Hong Kong, China

Indonesia

Japan

Republic of Korea

Malaysia

New Zealand

Papua New Guinea

Philippines

Russian Federation

Republic of Singapore

Solomon Islands

Thailand

Republic of Vanuatu

Socialist Republic of Vietnam

hereinafter referred to as "the Authorities"

Recognizing the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources;

Recalling the importance of the requirements set out in the relevant maritime conventions for ensuring maritime safety and marine environment protection;

Recalling also the importance of the requirements for improving the living and working conditions at sea;

Noting the resolutions adopted by the International Maritime Organization (IMO), and especially Resolution A682(17) adopted at its 17th Assembly, concerning regional co- operation in the control of ships and discharges;

Noting also that the Memorandum is not a legally binding document and is not intended to impose any legal obli-

gation on any of the Authorities;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the administrations whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening cooperation and the exchange of information;

have reached the following understanding:

Section 1 General

1.1 Each Authority that has accepted the Memorandum will give effect to the provisions of the present Memorandum.

1.2 For the purposes of the Memorandum, references to the "region", to "regional", to "regional ports" or to "regional port State control" mean the Asia- Pacific region, and references to "port State" means the States, and the territories recognized as Associate Members of IMO in which the ports are located.

1.3 Each Authority will establish and maintain an effective system of port State control with a view to ensuring that, without discrimination, foreign merchant ships calling at a port of its Authority, or anchored off such a port comply with the standards laid down in the relevant instruments as defined in section 2.

1.4 Each Authority, under the coordination of the Committee established pursuant to paragraph 6.1, will determine an appropriate annual percentage of individual foreign merchant ships, hereinafter referred to as "ships", to be inspected. The Committee will monitor the overall inspection activity and its effectiveness throughout the region. As a preliminary target, subject to subsequent review, the Committee will endeavour to attain a regional annual inspection rate of 50% of the total number of ships operating in the region by the year 2000. The percentage is based on the number of ships which entered regional ports during a recent base period to be decided by the Committee.

1.5 Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant Instruments

2.1 For the purposes of the Memorandum, the following are the relevant instruments on which regional port State control is based:

.1 the International Convention on Load Lines 1966;

.2 the International Convention for the Safety of Life at Sea, 1974 as amended;

.3 the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;

.4 the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto;

.5 the International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, as amended;

.6 the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

.7 the International Convention on Tonnage Measurement of Ships, 1969; and

.8 the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147)

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147), each Authority will be guided by the instructions in chapter 4 of the Asia- Pacific Port State Control Manual (hereinafter referred to as the "Manual"). The implementation of ILO Convention No. 147 will not require any alterations to structure or facilities involving accommodation for ships whose keels were laid down before April 1, 1994.

2.3 In the application of the other relevant instruments, each Authority will be guided by the standards specified in chapter 3 of the Manual.

2.4 Each Authority will apply those relevant instruments which are in force and are binding upon it. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which are binding upon it. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.

2.5 In applying a relevant instrument for the purpose of port State control, the Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-party to that instrument.

2.6 When inspecting ships for provisions of the relevant instruments to which it is a Party, the Authority as the port State will not impose standards on foreign ships that are in excess of standards applicable to ships flying the flag of that port State.

Section 3 Inspection Procedures, Rectification and Detention

3.1 In implementing this Memorandum, the Authorities will carry out inspections, which will consist of at least a visit on board a ship in order to check the certificates and documents, and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation, and hygienic conditions on board, meets the provisions of the relevant instruments. In the absence of valid certificates, or if there are clear grounds for believing that the crew or the condition of the ship or its equipment does not substantially meet the requirements of a relevant instrument, or the master or crew are not familiar with essential shipboard procedure relating to the safety of ships or the prevention of pollution, a more detailed inspection will be carried out. Inspections will be carried out in accordance with the Manual.

3.2 Clear Grounds

3.2.1 The Authorities will regard as 'clear grounds' *inter alia* the following:

.1 a report or notification by another Authority;

.2 a report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded; and

.3 other indications of serious deficiencies, having regard in particular to the Manual.

3.2.2 For the purpose of control, specific 'clear grounds' include those prescribed in paragraph 2.3 of IMO resolution A.787(19) contained in chapter 3 of the Manual.

3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.

3.3 In selecting ships for inspection the Authorities will give priority to the following ships:

.1 passenger ships, roll-on/roll-off ships and bulk carriers;

.2 ships which may present a special hazard, including oil tankers, gas carriers, chemical tankers and ships carrying harmful substances in packaged form;

.3 ships visiting a port of a State, the Authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more;

.4 ships flying the flag of a State appearing in the three-year rolling average table of above-average detentions published in the annual report of the Memorandum;

.5 ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;

.6 ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;

.7 ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ships' particulars, the ships movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;

.8 ships which have been suspended from their class for safety reasons in the course of the preceding six months;

.9 ships referred to in paragraph 3.9; and

.10 type of ships identified by the Committee (referred to in paragraph 6.3) from time to time as warranting priority inspections.

The Authorities will pay special attention to oil tankers and bulk carriers of 10 years of age and over.

3.4 The Authorities will seek to avoid inspecting ships which have been inspected by any of the other Authorities within the previous six months, unless they have clear grounds for inspection. The frequency of inspection does not apply to the ships referred to in paragraph 3.3, in which case the Authorities will seek satisfaction whenever they will deem this appropriate.

3.5 Inspections will be carried out by properly qualified persons authorized for that purpose by the Authority concerned and acting under its responsibility having regard to sections 2.4 and 2.5 of IMO resolution A.787(19) contained in chapter 3 of the Manual.

3.6 Each Authority will endeavour to secure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those referred to in 3.7, the ship may be allowed to proceed to a port where any such deficiencies can be rectified. The provisions of 3.8 apply accordingly.

In exceptional circumstances where, as a result of the initial control and a more detailed inspection, the overall condition of a ship and its equipment, also taking the crew and its living and working conditions into account, are found to be substandard, the Authority may suspend an inspection.

The suspension of the inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments.

Prior to suspending an inspection, the Authority will have recorded detainable deficiencies in the areas set out in Appendix 1 of IMO resolution A.787(19) and ILO Convention deficiencies*, as appropriate.

(Examples of detainable deficiencies are set out in chapter 7 of the Manual.)*

In cases where the ship is detained and an inspection is suspended, the Authority will, as soon as possible, notify the responsible parties. The notification will include information about the detention. Furthermore it shall state that the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.

3.7 In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea. For this purpose appropriate action will be taken, which may include detention or a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous. In the event of a detention, the Authority will as soon as possible, notify in writing the flag State or its consul or, in his absence, its nearest diplomatic representative of all the circumstances in which intervention was deemed necessary. Where the certifying Authority is an organization other than a maritime administration, the former will also be advised.

3.8 Where deficiencies which caused a detention as referred to in paragraph 3.7 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair yard available, as chosen by the master and agreed to by the Authority, provided that the conditions determined by the Authority and agreed by the competent authority of the flag State are complied with. Such conditions will ensure that the ship can proceed without risk to the safety and health of the passengers or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment. In such circumstances the Authority will notify the Authority of the ship's next port of call, the parties mentioned in paragraph 3.7 and any other authority as appropriate. Notification to Authorities will be made in accordance with chapter 7 of the Manual. The Authority receiving such notification will inform the notifying Authority of action taken.

3.9 If a ship referred to in paragraph 3.8 proceeds to sea without complying with the conditions agreed to by the Authority of the port of inspection:

.1 that Authority will immediately alert all other Authorities; and

.2 the ship will be detained at any port of the Authorities which have accepted the Memorandum, until the owner or operator has provided evidence to the satisfaction of the Authority of the port State, that the ship fully complies with all applicable requirements of the relevant instruments.

If a ship referred to in paragraph 3.8 does not proceed to the nominated repair port, the Authority of the repair port will immediately alert all other Authorities.

3.10 The provisions of this section are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.

3.11 The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a document, in the form specified in chapter 7 of the Manual, giving the results of the inspection and details of any action taken.

3.12 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

3.13 In the case that an inspection is initiated based on a report or complaint, especially if it is from a crew member, the source of the information must not be disclosed.

3.14 The owner or the operator of a ship or its representative will have a right of appeal against a detention taken by the Authority of the port State. Initiation of the appeal process will not by itself cause the detention to be suspended.

Section 4 Provision of information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in the Manual.

4.2 Arrangements will be made for the exchange of inspection information with other regional organizations working under a similar memorandum of understanding.

4.3 The Authorities will, upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant.

Section 5 Training Programs and Seminars

The Authorities will endeavour to establish training programs and seminars for port State control officers.

Section 6 Organization

6.1 A Committee composed of a representative of each of the Authorities that have accepted the Memorandum will be established. An observer from each of the International Maritime Organization, the International Labour Organization, the Economic and Social Commission for Asia and the Pacific and any other organization or authority which the Committee may deem appropriate will be invited to participate without vote in the work of the Committee.

6.2 The Committee will meet once a year and at such other times as it may decide.

6.3 The Committee will

.1 carry out the specific tasks assigned to it under the Memorandum;

.2 promote by all means necessary, including training and seminars, the harmonization of procedures and practices relating to inspection, rectification and detention whilst having regard to paragraph 2.4;

.3 develop and review guidelines for carrying out inspections under the Memorandum;

.4 develop and review procedures for the exchange of information; and

.5 keep under review other matters relating to the operation and the effectiveness of the Memorandum.

6.4 A Secretariat will be established in accordance with the following principles:

.1 the Secretariat is a non- profit making body located in Tokyo;

.2 the Secretariat will be totally independent from any maritime administration or organization;

.3 the Secretariat will be governed by and be accountable to the Committee;

.4 the Secretariat will have a bank account into which all dues and contributions are made; and

.5 the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.

6.5 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:

.1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;

.2 facilitate the exchange of information; and

.3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

6.6 The Asia-Pacific Computerized Information System (APCIS) is established for the purpose of exchanging information on port State inspections, in order to:

.1 make available to Authorities information on inspections of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and their exercise of port State control on selected ships; and

.2 provide effective information exchange facilities regarding port State control in the region.

6.7 The functions and operational procedures of the APCIS are specified in chapter 7 of the Manual.

Section 7 Amendments

7.1 The Memorandum will be amended by the following procedure:

.1 any Authority that has accepted the Memorandum may propose amendments to the Memorandum;

.2 the proposed amendment will be submitted through the Secretariat for consideration by the Committee;

.3 amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee, each Authority exercising one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance;

.4 an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority;

.5 any such objection will be considered by the Committee at its next meeting, and the amendment will be confirmed if it is accepted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee at such meeting. In these circumstances, a quorum of more than half of the total number of representatives of the Authorities that comprise the Committee is required. In the event that the amendment is confirmed, the date of its deemed acceptance will be either at the end of a period of six months after being confirmed or any different period determined unanimously by the representatives of the Authorities in the Committee at the time of confirmation; and

.6 an amendment will take effect 60 days after it has been deemed accepted, or at the end of any different period of deemed acceptance as determined unanimously by the representatives of the Authorities in the Committee.

7.2 The Manual will be amended by the following procedure:

.1 the proposed amendment will be submitted through or by the Secretariat for consideration by the Authorities;

.2 the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in paragraph 7.1 will apply; and

.3 the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.

Section 8 Administrative Provisions

8.1 The Memorandum is without prejudice to rights and obligations under any international instrument.

8.2 Any maritime authority may, with the unanimous consent of the Authorities present and voting at the Committee meeting, adhere to the Memorandum. For such an Authority, the Memorandum will take effect upon such date as may be mutually determined.

8.3 Any maritime authority or organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.

8.4 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

8.5 The Memorandum is signed at Tokyo on December 1, 1993 and will remain open for signature until the signing during the first meeting of the Committee to be held in 1994.

8.6 The Memorandum will be available for acceptance from April 1, 1994, and will take effect for each Authority, which has signed the Memorandum, on the date its acceptance is duly notified to the Secretariat.

8.7 The English text is the official version of the Memorandum.

This Memorandum is signed at Tokyo on December 1, 1993 by the following Authorities:

Australia

Canada

New Zealand

Papua New Guinea

MARITIME AUTHORITIES SIGNING THE ASIA-PACIFIC MEMORANDUM OF UNDERSTANDING

This Memorandum is signed at Tokyo on December 1, 1993 by the following Authorities:

Australia

.....

[Signed]
Mr. Patrick Quirk
General Manager
Ship and Personnel Safety Services
Australian Maritime Safety Authority

Canada

.....

[Signed]
Captain Rejean L. Lanteigne
A. Director General
Ship Safety Directorate
Canadian Coast Guard

Fiji

.....

[Signed]
Captain Malcolm A. Peckham
Port Master
Ministry of Transport

Hong Kong

.....

[Signed]
Captain Allan C. Pyrke, ISO, JP
Director of Marine
Marine Department
Hong Kong Government

Indonesia

. . . . . .

[Signed]
Mr. Soentoro
Director General of Sea Communication
Ministry of Transport

Japan

. . . . . .

[Signed]
Mr. K. Ogawa
Ship Inspector General
Maritime Technology and Safety Bureau
Ministry of Transport

Korea,
Republic of

. . . . . .

[Signed]
Mr. Tae-Whan, Ahn
Director
Inspection and Measurement Division
Korea Maritime and Port Administration

Malaysia

. . . . . .

[Signed]
Madam O. C. Phang
Under-Secretary
Maritime Division
Ministry of Transport

New Zealand

. . . . . .

[Signed]
Mr. Lindsay Sturt
for Director of Maritime Safety
Maritime Safety Authority of New Zealand

Papua New Guinea

.....

[Signed]
Mr. Wabing Hofagao
Controller Marine Services
Department of Transport

Philippines

.....

[Signed]
Captain Willie C. Vergara
Assistant Chief of Staff for Operations, CG3
Philippine Coast Guard

Russian Federation

.....

[Signed]
Mr. Sergey V. Palekhov
Deputy Director
Department of Maritime Transport

Singapore,
Republic of

.....

[Signed]
Mr. Chen Tze Penn
Director (Sea & Air Transport)
Ministry of Communications

Solomon Islands

.....

[Signed]
Mr. Elliot Cortez
Superintendent of Marine
Ministry of Transport, Works & Utilities

Thailand

.....

[Signed]
Captain Sanchai Kulpreecha
Director, Ship Registration and Licence Division
Harbour Department

Vietnam,
Socialist Republic of

.....

[Signed]
Captain Nham Van San
Inspector-General
Director of Maritime Safety Inspection Department
Vietnam National Maritime Bureau

.....

[Signed]
M.J.Hubbard

Chairman

Director General
Ship Safety Branch
Canadian Coast Guard

.....

[Signed]
C.C.Dayton

Secretary

Interim Asia-Pacific Port State Control
Secretariat

Signed as Witness to the above signatures.

.....

[Signed]
Mr. B. Klerck Nilssen
International Labour
Organization

.....

[Signed]
Mr. K. Sekimizu
International Maritime
Organization

.....

[Signed]
Mr. H. Huibers
Paris Memorandum of
Understanding on Port
State Control

MARITIME AUTHORITIES SIGNING THE ASIA-PACIFIC MEMORANDUM OF UNDERSTANDING

This Memorandum is signed at Beijing on April 11, 1994 by the following Authorities:

China
People's Republic of

Vanuatu
Republic of

Annex 1

GUIDELINES FOR SURVEYORS

Contents

Section 1 General.

1.1 Guidelines to be observed in the inspection of foreign ships.

1.2 Principles governing rectification of deficiencies or detention of a ship.

1.3 Application of the clause of 'no more favourable treatment'.

Section 2 The safety of the ship as related to SOLAS 74/78. LOAD LINES 66, COLREGS 72 and MARPOL 73/78.

2.1 More detailed inspection.

Section 3 Minimum manning standards and certification.

3.1 Introduction.

3.2 Manning control.

3.3 Certification control.

3.4 Detention.

Section 4 Merchant Shipping (Minimum Standards) Convention. 1976 (No. 147).

Section 5 Merchant ships under convention size.

Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in paragraph 3.1 of the Memorandum refer to the relevant provisions of the following:

.1 Procedures for the Control of Ships (IMO Resolution A.466 (XII)), as amended;

.2 Principles of Safe Manning (IMO Resolution A.481 (XII)) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2);

.3 Procedures for the Control of Ships and Discharges under Annex I of MARPOL 73/78 (IMO Resolution A.542 (13));

.4 Procedures for the Control of Ships and Discharges under Annex II of MARPOL 73/78 (IMO Resolution MEPC 26(23));

.5 Procedures for the Control of Operational Requirements related to the Safety of Ship and Pollution Prevention (IMO Resolution A.742(18));

.6 the provisions of the International Maritime Dangerous Goods Code;

.7 ILO publication Inspection of Labour Conditions on board Ship: Guidelines for procedures;

.8 The procedures laid down in this Annex to the Memorandum.

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the surveyor or Authority, as appropriate, will take into consideration the results of the detailed inspection carried out in accordance with section 3 of the Memorandum.

The surveyor will exercise his professional judgement in determining whether the ship should be considered for detention until the deficiencies are corrected, or to allow it to sail with certain deficiencies without unreasonable danger to either the safety or health of those on board or to the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of ILO Convention No. 147, special procedures will be observed as set out in sections 3 and 4 of this Annex.

1.3 Application of the clause of 'no more favourable treatment'

In applying paragraph 2.5 of the Memorandum the following will be observed:

Ships entitled to fly the flag of a non-party to a relevant instrument listed in section 2 of the Memorandum and thus not provided with either certificates or a statement of compliance satisfactory to the Authority representing *prima facie* evidence of satisfactory conditions on board, will receive a detailed inspection. In making such an inspection the surveyor should follow the same guidelines as provided for ships to which the relevant instruments are applicable. The conditions of and on such a ship and its equipment and the certification of the crew, its number and composition will be compatible with the aims of the provisions of a relevant instrument; otherwise the ship will be subject to such restrictions as are necessary to obtain a comparable level of safety.

Section 2 The safety of the ships as related to SOLAS 74/78, LOAD LINES 66, COLREGS 72 and MARPOL 73/78

2.1 More detailed inspection

In so far as the clear grounds for a more detailed inspection relating to the provisions of the SOLAS 78 Convention, the 78 Protocol thereto, the Load Lines Convention, the Convention on Collision Regulations and MARPOL 73/78 the surveyor when carrying out this inspection will take into account the considerations given in the Procedures for the Control of Ships (IMO Res. A.466(XII)), as amended, the 'Procedures for the Control of Ships and Discharges under Annex I of MARPOL 73/78' (IMO Res. A. 542(13)), the Procedures for the Control of Ships and Discharges under Annex II of MARPOL 73/78' (IMO Res. MEPC 26(23)), the provisions of the International Maritime Dangerous Goods Code and the provisions of section 4 of this Annex with regard to living and working conditions on board ships.

Section 3 Minimum manning standards and certification

3.1 Introduction

The guiding principle for port State inspection of the manning of a foreign ship should be to establish conformity with the flag administration's safe manning requirements. Where this is in doubt the flag administration should be consulted. Such safe manning requirements stem from:

.1 the International Convention for the Safety of Life at Sea (SOLAS) 1974;

.2 the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention No. 147) which *inter alia* refers to the ILO Convention No. 53 Article 3 and 4;

.3 the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978;

.4 the Contents of Minimum Safe Manning Document (IMO Resolution A.481(XII), Annex 1);

.5 the Guidelines for the Application of Principles of Safe Manning (IMO Resolution A.481 (XII), Annex 2).

Detention as port State action will only be taken on the grounds laid down in the relevant instruments and used in conjunction with advice from the flag administration. Where such response is not readily forthcoming, and the extent of the manning deficiency is such as to render the ship clearly unsafe for the intended voyage or service, detention may be the only resort.

3.2 Manning control

3.2.1 If a ship is manned in accordance with a safe manning document or equivalent document issued by the flag administration, the surveyor or Authority, as appropriate, will accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and in the IMO Guidelines for the Application of Principles of Safe Manning. In this last case the surveyor should act according to the procedures defined in paragraph 3.2.3 of this Annex.

3.2.2 If the actual crew number or composition does not conform to the manning document, the Authority should request the flag administration for advice whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible. The reply, if any, from the flag administration should be confirmed by facsimile and should be received in reasonable time before the expected departure time of the ship. If the actual crew number and composition is not brought into accordance with the safe manning document or the flag administration does not advise that the ship could sail within the time required, the ship may be considered for detention after the criteria set out in paragraph 3.4 of this Annex have been taken into proper account.

3.2.3 If the ship does not carry a safe manning document or equivalent, the Authority should request the flag administration to specify the required number of crew and its composition and to issue a document as quickly as possible.

In case the actual number or composition of the crew does not conform to the specifications received from the flag administration, the procedure as contained in paragraph 3.2.2 of this Annex applies.

If the flag administration does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1 of this Annex. The ship will only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4 of this Annex. In any such case the minimum standards to be applied will be no more stringent than those applied to its own ships.

The lack of a safe manning document will be reported as a deficiency.

3.3 Certification control

3.3.1 General certification control upon ships should be carried out in accordance with the procedures stipulated in Article X and in Regulation I/4 of the STCW Convention.

3.3.2 Certification control upon ships engaged in the carriage of liquid hazardous cargo in bulk should be more stringent. The surveyor should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having the appropriate training and experience.

No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified.

With regard to appropriate training, reference is made to Chapter V of the STCW Convention, to Resolutions 10, 11 and 12 adopted by the International Conference on Training and Certification of Seafarers 1978, to the relevant sections of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Code for the Construction and Equipment of Ships Carrying Liquified Gases in Bulk.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

.1 length and nature of the intended voyage or service;

.2 whether or not the deficiency poses a danger to ship, persons on board or the environment;

.3 whether or not appropriate rest periods of the crew can be observed;

.4 size and type of ship and equipment provided;

.5 nature of cargo.

The absence of a Deck or Engineer Officer required to be certificated should not be grounds for detention where the absence is in accordance with any exceptional provisions approved by the flag administration.

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

4.1 Inspections on board ships under the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) shall relate to:

.1 the Minimum Age Convention, 1973 (No.138); or
the Minimum Age (Sea) Convention (Revised), 1936 (No58); or
the Minimum Age (Sea) Convention, 1920 (No. 7);

.2 the Medical Examination (Seafarers) Convention, 1946 (No. 73);

.3 the Prevention of Accidents (Seafarers) Convention, 1970 (No.134) (Articles 4 and 7);

.4 the Accommodation of Crews Convention (Revised), 1949 (No. 92) except for structural and facilities modifications;

.5 the Food and Catering (Ships Crews) Convention, 1946 (No. 68) (Article 5);

.6 the Officers Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in section 3 of this Annex. In the exercise of control functions the surveyor, in the light of his general impression of the ship, will have to use his professional judgement to decide whether the ship shall received a more detailed inspection. All complaints regarding conditions on board should be investigated thoroughly and action taken as deemed necessary by the circumstances. He will also use professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions, and may if necessary detain or recommend detention of the ship until appropriate corrective action is taken.

4.2 In so far as there are clear grounds for a more detailed inspection relating to the provisions of ILO Convention No. 147, the surveyor when carrying out an inspection shall take into account the previous paragraph in this section and the considerations given in the ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

4.3 The conventions relevant in the framework of the provision of paragraph 4.4 of this Annex are:

.1 the Seamen's Articles of Agreement Convention, 1926 (No. 22);

.2 the Repatriation of Seamen Convention, 1926 (No 23);

.3 the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55); or
the Sickness Insurance (Sea) Convention, 1936 (No. 56); or
the Medical Care and Sickness Benefits Convention, 1969 (No. 130);

.4 the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);

.5 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);

.6 the Accommodation of Crews Convention (Revised), 1949 (No. 92) for structural and facilities modifications.

4.4 If the surveyor receives a complaint to the effect that the standards laid down in the conventions listed in paragraph 4.3 of this Annex are not met, the matter should be reported, as appropriate, to the nearest maritime, consular or diplomatic representation of the flag administration for further action. If deemed necessary, the appropriate Authority may prepare a report to the flag administration, if possible with evidence, with a copy to the ILO.

4.5 Those parts of the ILO publication, Inspection of Labour Conditions on board Ship; Guide-lines for procedure, which deal with:

.1 control procedures for its own ships;

.2 vocational training;

.3 officers' certificates of competency;

.4 hours of work and manning;

should not be considered as relevant provisions for the inspection of ships but as information to surveyors only.

Section 5 Ships under convention size

5.1 *To the extent* a relevant instrument is not applicable, the surveyor's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment the surveyor will take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

5.2 *In the exercise* of his functions under paragraph 5.1 of this Annex the surveyor should be guided by any certificates and other documents issued by the flag administration. The surveyor will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgment in deciding whether and in what respects the ship shall receive a more detailed inspection, taking into account the factors mentioned in paragraph 5.1 of this Annex. When carrying out a more detailed inspection the surveyor will, to the extent he deems necessary, pay attention to the items listed in paragraph 5.2 of this Annex. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

5.3 Items of general importance

5.3.1 Items related to the conditions of assignment of load lines:

.1 weathertight (or watertight as the case may be) integrity of exposed decks;

.2 hatches and closing appliances;

.3 weathertight closures to openings in superstructures;

.4 freeing arrangements;

.5 side outlets;

.6 ventilators and air pipes;

.7 stability information.

5.3.2 Other items related to the safety of life at sea:

.1 life saving appliances;

.2 fire fighting appliances;

.3 general structural conditions (i.e., hall, deck, hatch covers, etc.);

.4 main machinery and electrical installations;

.5 navigational equipment including radio installations.

5.3.3 Items related to the prevention of pollution from ships;

.1 means for the control of discharge of oil and oil mixtures e.g. oily water separating or filtering equipment or other equivalent means (tanks(s) for retaining oil, oily mixtures, oil residues);

.2 means for the disposal of oil, oily mixtures or oil residues;

.3 presence of oil in the engine room bilges.

5.4 *In the case of* deficiencies which are considered hazardous to safety, health or the environment the surveyor or Authority, as appropriate, will take such action, which may include detention as may be necessary, having regard to the factors mentioned in paragraph 5.1 of this Annex to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

Annex 2

EXCHANGE OF MESSAGES BY AUTHORITIES IN THE REGION IN ACCORDANCE WITH PARAGRAPH 3.8 OF THE MEMORANDUM

1 In the case of deficiencies not fully rectified or only provisionally repaired, a message will be sent to the Authority of the ship's next port of call.

1.1 The exchange of messages, as in paragraph 1 above, will take effect through the use of the communication facilities incorporated in the information system as described in Annex 4 and/or by facsimile on the form contained in this Annex.

1.2 Each message as in paragraph 1 above, will contain the following information:

* date;
* from (country or region);
* port;
* to (country or region);
* port;
* a statement reading: deficiencies to be rectified;
* name of ship;
* IMO identification number (if available);
* type of ship;
* flag of ship;
* call sign;
* gross tonnage;
* year of build;
* issuing authority of relevant certificate(s)
* date of departure;
* estimated place and time of arrival;
* nature of deficiencies;
* action taken;
* suggested action;
* suggested action at next port of call;
* name and facsimile number of sender.

Form Annex 2

REPORT OF DEFICIENCIES NOT FULLY RECTIFIED OR ONLY PROVISIONALLY REPAIRED

IN ACCORDANCE WITH ANNEX 2 OF THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE ASIA-PACIFIC REGION

(Copy to maritime authority of next port of call, flag administration or other certifying authority as appropriate as required by paragraph 3.8 of the Memorandum and to the PSC Secretariat)

(See Chapter 2 of the Manual for Surveyors for maritime authority addresses)

1. From country/region:..... 2. Port:.....

3. To country/region:..... 4. Port:.....

5. Name of ship:..... 6. Date departed:.....

7. Estimated place and time of arrival:.....

8. IMO number:..... 9. Flag of ship & POR .....

10. Type of ship:..... 11. Call sign:.....

12. Gross tonnage:..... 13. Year of build: .....

14. Issuing authority or relevant certificates:.....

15. Nature of deficiencies to be rectified:

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16. Suggested action (including action at next port of call):

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17. Action taken:

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.....

Reporting Authority:..... Office: .....

Name:..... Facsimile: .....

duly authorized surveyor of reporting authority.

Annex 3

FORM A

REPORT OF INSPECTION IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE ASIA-PACIFIC REGION*)

(reporting authority)
(address)
(telephone)
(facsimile)
(telegram)
(telex)

Copy head office
(surveyor's copy)
(master's copy)
(IMO copy)
(flag administration copy)

1. name of issuing authority: .....
2. name of ship: ..... 3. flag of ship: .....
4. type of ship: .....
5. call sign: ..... 6. IMO number: .....
7. gross tonnage: ..... 8. year of build: .....
9. date of inspection: ..... 10. place of inspection: .....
11. relevant instruments and requirements:

a) relevant certificate	b) issuing authority	c) state of issue/expiry
1.	.....	.....
2.	.....	.....
3.	.....	.....
4.	.....	.....
5.	.....	.....
6.	.....	.....
7.	.....	.....
8.	.....	.....

a) the information below concerning the last survey shall be provided if the next survey is due or overdue

date	surveying authority	place
1.	.....	.....
2.	.....	.....
3.	.....	.....
4.	.....	.....
5.	.....	.....
6.	.....	.....
7.	.....	.....
8.	.....	.....

12. deficiencies ❑ no ❑ yes (see attached FORM B) ❑ SOLAS ❑ MARPOL
13. ship detained ❑ no ❑ yes
14. supporting documentation ❑ no ❑ yes (see annex)

district office .....

telephone .....

facsimile/telegram .....

name .....

duly authorized surveyor of (issuing authority)

signature .....

* This inspection report has been issued solely for the purpose of informing the master and other Authorities that an inspection by the Authority mentioned in the heading, has taken place. This inspection report cannot be construed as a seaworthiness certificate in excess of the certificate the ship is required to carry.

Annex 3

FORM B

REPORT OF INSPECTION IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE ASIA-PACIFIC REGION

(reporting authority)
(address)
(telephone)
(facsimile)
(telegram)
(telex)

Copy head office
(surveyor's copy)
(master's copy)
(IMO copy)
(flag administration copy)

1. name of issuing authority: .....

2. name of ship: ..... 5. call sign .....

9. date of inspection: ..... 10. place of inspection: .....

15. nature of deficiency	Convention references[i]	16. action taken[ii]
.....	.....	.....
.....	.....	.....
.....	.....	.....
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.....	.....	.....
.....	.....	.....
.....	.....	.....

name .....
duly authorized surveyor of (issuing authority)

signature .....

i To be completed in the event of a detention.

ii Codes for actions taken include i.a.: ship detained/released, flag administration informed, classification society informed, next port informed (for

(reverse side of Form B)

codes for actions taken

code	
00	no action taken
10	deficiencies rectified
15	rectify deficiency at next port
16	rectify deficiency within 14 days
17	master instructed to rectify deficiency before departure
30	ship detained
35	detention raised
40	next port informed
50	flag administration/consul/flag maritime authority informed
55	flag administration/maritime authority consulted
60	region authority informed
70	classification society informed
80	temporary substitution of equipment
85	investigation of contravention of discharge provisions (MARPOL)
99	other (specify in clear text)

Annex 4

INFORMATION SYSTEM ON INSPECTIONS

1. To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have, at the disposal of the Authorities, up to date information on inspections of the individual foreign merchant ships in other regional ports.

2. For that purpose each Authority undertakes to provide the Canadian Coast Guard, Ottawa by means of computerized data transmission, information on foreign ships inspected in its ports, basing the report on the information set out in Annex 3 to the Memorandum. The inspection information should be submitted by direct computerized input, preferably on a daily basis.

3. For the purpose of exchanging rapid information, the information system shall embrace a communication facility which will allow for direct communication between the individual Authorities that are participating in the Memorandum. Notification of deficiencies and default subsequent remedial action that is covered in section 3.8 of the Memorandum and operational violations as covered by section 4.3 shall be by means of the above system.

4. In the interest of harmonized inspection procedures the submission of inspection information covered in paragraphs 2 and 3 should be in accordance with the procedures set out in the guide for users of the information systems provided by the Canadian Coast Guard and approved by the Committee.

5. The Canadian Coast Guard will provide to the Secretariat such information from the system including statistic [???] required to assist the Committee in the management of regional co-operation on Port State Control in the Asia-Pacific region.

6. The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum is in effect. The system will be monitored on a ongoing basis and upgraded where and when required with the approval of the Committee.

BILATERAL

ARGENTINA

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Agreement between the National Park Service of the Department of the Interior of the United States of America and the National Parks Administration of the Secretariat for Natural Resources and Sustainable Development of Argentina on Cooperation in Management and Protection of National Parks and Other Protected Natural and Cultural Heritage Sites, Buenos Aires, 1997

Done at Buenos Aires 16 October 1997

Entered into force 16 October 1997

Primary source citation: Copy of text provided by the U.S. Department of State

The National Park Service of the Department of the Interior of the United States of America, hereinafter referred to as "NPS", and the National Parks Administration of the Secretariat for Natural Resources and Sustainable Development of the Argentine Republic, hereinafter referred to as "APN".

RECOGNIZING the mutual interest between NPS and APN, hereinafter referred to as the "Parties", in the establishment and management of national parks and protected areas for the purpose of conserving ecosystems and promoting natural and cultural tourism;

TAKING INTO CONSIDERATION the advantages of facilitating, coordinating and amplifying efforts in conservation, management and development of natural and cultural resources in protected areas of mutual interest;

NOTING the mutual interest in strengthening cooperation between the Parties in the exchange of information and informal education activities for the management and operation of parks;

ACKNOWLEDGING the mutual objectives and interests of the Parties declared in the Convention Concerning the Protection of World Cultural and Natural Heritage of November 16, 1972;

Have agreed as follows:

ARTICLE 1

This Agreement has as its objective the creation of a framework for cooperation between the Parties concerning the conservation of protected natural areas and their biodiversity and the preservation of cultural heritage and natural resources under their jurisdiction.

ARTICLE 2

1. The Parties will meet periodically as necessary, alternating between the two countries, to discuss projects and possible areas for future cooperation.

2. Each Party will designate a Coordinator to direct, to approve and to monitor the progress of cooperative activities developed to accomplish the objectives outlined in this Agreement. Documentation, in support of proposed projects, may be submitted by either Party and will contain a description, the objectives, a calendar of events and date of conclusion, required equipment and personnel and estimated costs for each Party.

3. Each project will be carried out under the supervision of a NPS and APN team leader, selected respectively by each of the Parties. The team leaders will jointly develop and submit a final report on each project.

4. Any changes to the agreed projects will require the concurrence of both coordinators.

ARTICLE 3

1. The forms of cooperative activities under this Agreement may consist of the provision and exchange of information; participation in training courses, conferences, and symposia; professional exchanges in areas of mutual interest; and other forms of cooperative activities as mutually agreed upon.

2. The specific areas of interest for cooperative activities may include, but are not limited to:

   a) Collaboration between the Parties in the planning, development, management and operation of protected natural parks and protected cultural sites for areas within their jurisdiction in their respective countries; and in the planning and design of visitor programs and national facilities.

   b) Specialized projects related to management of protected natural areas including, but not limited to, urban and mountain parks and marine coastal areas within their national jurisdiction.

   c) Exchange of information regarding the goals of this Agreement and in other areas related to conservation and environmental protection mutually identified and accepted by the Parties.

   d) Development of educational and public information focusing on the environment and in understanding protected natural areas and cultural heritage.

3. For involvement requested by APN that extends into subjects outside the scope of NPS, NPS may, with the consent of APN, and to the extent consistent with existing laws, regulations and policies of the United States of America, endeavor to enlist the participation of other organizations or agencies of the United States of America in the development and implementation of activities within the scope of this Agreement. For involvement requested by NPS that extends into subjects outside the scope of APN, APN may, with the consent of NPS, and to the extent consistent with existing laws, regulations and policies of the Government of the Argentine Republic, endeavor to enlist the participation of other organizations or agencies of the Government of the Argentine Republic, in the development and implementation of activities within the scope of this Agreement.

4. This Agreement does not cover access to in-situ genetic resources.

ARTICLE 4

Cooperation under this Agreement will be subject to the availability of funds and personnel of each Party, and will be conducted in accordance with the laws and regulations of each country. The nature and extent of funding of each project will be agreed upon by the Parties before its commencement.

ARTICLE 5

Information transmitted by one Party to the other Party under this Agreement will be accurate to the best knowledge and belief of the transmitting Party. The transmitting Party does not warrant the suitability of the information transmitted for any particular use of or application by the receiving Party.

ARTICLE 6

Nothing in this Agreement will be construed to prejudice other existing or future Agreements concluded between the Governments of the United States and the Argentine Republic, nor will it affect the rights and obligations of the two Governments under international agreements to which they are a party.

ARTICLE 7

This Agreement will enter into force upon signature, and will remain in force for five (5) years. It may be extended or amended by written agreement of the Parties.

This Agreement may be terminated at any time by either Party, upon written notification ninety (90) days in advance of such termination. The termination of the Agreement will not affect the validity or duration of projects under this Agreement which are initiated prior to such termination.

Done at Buenos Aires on this 16th day of October, 1997, in duplicate, in English and Spanish, both the texts being equally authentic.

FOR THE NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, UNITED STATES OF AMERICA:
[Signature]

FOR THE NATIONAL PARKS ADMINISTRATION, SECRETARIAT FOR NATURAL RESOURCES AND SUSTAINABLE DEVELOPMENT, REPUBLIC OF ARGENTINA:
[Signature]

BILATERAL

ARGENTINA

NON-BINDING

Statement of Intent by the Governments of the Argentine Republic and the United States of America Concerning Cooperation for Sustainable Development, Joint Implementation, and Activities Implemented Jointly to Reduce Emissions of Greenhouse Gases, Buenos Aires, 1997

Done at Buenos Aires 16 October 1997

Primary source citation: Copy of text provided by the U.S. Department of State

Whereas:

The Government of the Argentine Republic and the Government of the United States of America ("the governments"), recognize that enhancing environmental protection, and, in particular, controlling greenhouse gas emissions to limit potential diverse climate change impacts, would be mutually beneficial;

The governments recognize that limiting the adverse impacts of climate change requires global actions to which the governments can make significant contributions, and the governments have a mutual interest in working together in this area;

The governments recognize that the United Nations Framework Convention on Climate Change calls on all countries to cooperate in the development, transfer and application of technologies to reduce or prevent greenhouse gas emissions and to enhance sinks and reservoirs of greenhouse gases;

The governments further recognize that Decision 5/CP.1, adopted by the First Conference of the Parties to the Framework Convention on Climate Change, established a pilot phase for joint implementation, referred to as "Activities Implemented Jointly." An important purpose of the pilot phase is to develop information to support joint implementation with credit;

The governments express their shared belief in the utility of joint implementation with credit in the post-Kyoto regime;

The governments recognize that participation in the pilot phase and in a subsequent joint implementation system is, and always will be, voluntary.

The governments hereby declare as follows:

The governments intend to facilitate the development of projects relating to this statement, which should encourage the use, transfer, market deployment and joint development of greenhouse gas reducing technologies,

including lower-emission fossil fuels, energy efficiency and renewable energy technologies, education, training and information-sharing programs; increased diversification of energy sources; the reduction of greenhouse gas emissions; and the conservation, restoration, and enhancement of carbon sinks from forests, agriculture, grazing and other lands;

The governments intend that the forms of cooperation under this framework may include the following:

A. Designation of an agency in the Government of the Argentine Republic with the responsibility for project evaluation and issuance of official decisions regarding project acceptance;

B. Design of the Argentine Republic's program criteria to facilitate acceptance of projects relating to Activities Implemented Jointly compatible with the priorities of the Argentine Republic and the guidelines of the US Initiative on Joint Implementation, with respect to measures that reduce the emission of greenhouse gases and increase carbon sinks;

C. Identification and support of projects that are likely to meet program criteria established by the governments;

D. Exchange of information on methodologies and mechanisms to establish procedures for monitoring and external verification of greenhouse gas reductions, and the tracking and attribution of such reductions;

E. Outreach and promotion of activities relating to this Statement of Intent in the private, public, and nongovernmental sectors;

F. Exploration of credible certification reductions, including the determination of reasonable greenhouse gas emissions baselines;

G. Design of activities and projects, implemented in accordance with this, for the purposes of:

1. encouraging increased private sector involvement in sustainable development projects relating to this Statement of Intent;

2. fostering the establishment of continuous financing vehicles and other mechanisms to assist private entrepreneurs to build successful enterprises that support projects oriented towards Activities Implemented (including, in the future, projects related to joint implementation with credit) related to the energy, industrial, transport and forestry sectors;

3. providing information concerning additional sources of project funding and the policy framework needed to facilitate access to them; and

4. facilitating the exchange of information concerning arrangements of business agreements, joint ventures and licensing agreements between companies in industrialized nations and enterprises in developing nations.

The Governments intend that any project or arrangement undertaken pursuant to this Statement of Intent will be on terms accepted by all parties to the transaction. Furthermore, the Governments intend to include appropriate patent and other intellectual property rights provisions, as well as provisions to protect business confidential information, in any such plans or arrangements. In the event that any activity involves access to and the sharing or transfer of technology subject to patents or other intellectual property rights, such access and sharing or transfer should be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights.

When, in the future, both governments have emissions targets under the UN Framework Convention on Climate Change, the governments could also pursue action under this Statement to focus on cooperation with respect to an emissions trading system.

The original text, in English and in Spanish, of this Declaration will be deposited at the Argentine Ministry of Foreign Affairs and at the Office of International Energy Policy, Trade and Investment, US Department of Energy.

Signed at Buenos Aires on this 16th day of October, 1997, in English and in Spanish.

[Signature]
FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

[Signature]
FOR THE GOVERNMENT OF
ARGENTINE REPUBLIC:

BILATERAL

Brazil

NON-BINDING

Partner Parks Declaration between the Everglades National Park and the Pantanal National Park of the United States of America and the Federative Republic of Brazil, respectively, Brasilia, 1997

Done at 14 October 1997

Primary source citation: Copy of text provided by the U.S. Department of State

Whereas, the national parks of the United States and Brazil provide protection of valuable natural resources and sanctuary for important ecosystems and the great diversity of life that resides in them;

Whereas, the national parks of the United States and Brazil contribute to sustainable development, provide places of wonder, recreation, learning and enjoyment for all people;

Whereas, the United States and Brazil have recognized the value of conserving their complex wetlands and each has created a national park to conserve portions of its wetlands systems of the Everglades and Pantanal;

Whereas, the United States and Brazil recognize the important contribution of non governmental organizations to the protection and development of national parks, including the National Parks of the Everglades and Pantanal;

Whereas, the United States and Brazil are signatories of the Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat (Ramsar, 1971), and that the National Parks of the Everglades and Pantanal are Ramsar sites, wetland systems included on the Ramsar list, which are considered natural storehouses of biological diversity that furnish life support systems for a large portion of humanity;

Whereas, in the Declaration of Principles of the Summit of the Americas the United States and Brazil committed to create cooperative partnerships to strengthen our capacity to protect ecosystems, a principle which was reaffirmed at the Bolivian Summit on Sustainable Development, as well as in the United States-Brazil Common Agenda for the Environment;

NOW, THEREFORE, WE DECLARE AS FOLLOWS:

The Everglades National Park and the Pantanal National Park are hereby designated as Partner Parks.

It is the intention of the United States and Brazil to encourage cooperation to strengthen conservation, management and sustainable use of these sites. It is the intention of the United States and Brazil to encourage Partner Parks to identify areas of mutual interest and capabilities to develop cooperative projects and initiatives that could involve governmental authorities, the private sector, non-governmental organizations and other entities, including activities such as:

a) Professional personnel exchanges to observe alternative methods of planning and managing natural resources, assessing environmental impacts, enhancing visitor services, assuring enforcement, increasing revenue, educating the public, and involving nearby citizens; and

b) Information exchanges to share knowledge and expertise on infrastructure technologies, scientific studies, financial mechanisms, and communications systems.

It is the intention of the United States and Brazil to develop a work plan annually based on available resources of both countries. Cooperative activities spelled out in the work plan are to be reviewed annually at the United States-Brazil Common Agenda for the Environment consultations.

Done at Brazil, on this 14th day of October, 1997, in duplicate in both English and Portuguese, both texts being equally authentic.

[Signature]
FOR THE UNITED STATES OF AMERICA:

[Signature]
FOR THE FEDERATIVE REPUBLIC OF BRAZIL:

BILATERAL

CANADA

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Protocol between the Government of the United States of America and the Government of Canada Amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States, Washington, DC, 1995

Done at Washington, DC 14 December 1995

Entered into force 7 October 1999

Primary source citation: Copy of text provided by the U.S. Department of State

The Government of the United States of America and the Government of Canada,

REAFFIRMING their commitment to achieving the purposes and objectives of the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States;

DESIRING to amend and update the Convention to enable effective actions to be taken to improve the conservation of migratory birds;

COMMITTED to the long-term conservation of shared species of migratory birds for their nutritional, social, cultural, spiritual, ecological, economic, and aesthetic values through a more comprehensive international framework that involves working together to cooperatively manage their populations, regulate their take, protect the lands and waters on which they depend, and share research and survey information;

AWARE that changes to the Convention are required to ensure conformity with the aboriginal and treaty rights of the Aboriginal peoples of Canada;

ACKNOWLEDGING the intent of the United States to provide for the customary and traditional taking of certain species of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska; and

AFFIRMING that it is not the intent of this Protocol to cause significant increases in the take of species of migratory birds relative to their continental population sizes;

HAVE AGREED as follows:

ARTICLE I

In order to update the listing of migratory birds included in the terms of this Convention in a manner consistent with their current taxonomic (Family and Subfamily) status, Article I of the Convention is deleted and replaced by the following:

The High-Contracting Powers declare that the migratory birds included in the terms of this Convention shall be as follows:

1. Migratory Game Birds:

Anatidae, or waterfowl (ducks, geese and swans); Gruidae, or cranes (greater and lesser sandhill and whooping cranes); Rallidae, or rails (coots, gallinules and rails); Charadriidae, Haematopodidae, Recurvirostridae, and Scolopacidae, or shorebirds (including plovers and lapwings, oystercatchers, stilts and avocets, and sandpipers and allies); and Columbidae (doves and wild pigeons).

2. Migratory Insectivorous Birds:

Aegithalidae (long-tailed tits and bushtits); Alaudidae (larks); Aepodidae (swifts); Bombycillidae (waxwings); Caprimulgidae (goatsuckers); Certhiidae (creepers); Cinclidae (dippers); Cuculidae (cuckoos); Emberizidae (including the emberizid sparrows, wood-warblers, tanagers, cardinals and grosbeaks and allies, bobolinks, meadowlarks, and orioles, but not including blackbirds); Fringillidae (including the finches and grosbeaks); Hirundinidae (swallows); Laniidae (shrikes); Mimidae (catbirds, mockingbirds, thrashers, and allies); Motacillidae (wagtails and pipits); Muscicapidae (including the kinglets, gnatcatchers, robins, and thrushes); Paridae (titmice); Picidae (woodpeckers and allies); Sittidae (nuthatches); Trochilidae (hummingbirds); Troglodytidae (wrens); Tyrannidae (tyrant flycatchers); and Vireonidae (vireos).

3. Other Migratory Nongame Birds:

Alcidae (auks, auklets, guillemots, murres, and puffins); Ardeidae (bitterns and herons); Hydrobatidae (storm petrels); Procellariidae (petrels and shearwaters); Sulidae (gannets); Podicipedidae (grebes); Laridae (gulls, jaegers, and terns); and Gaviidae (loons).

ARTICLE II

Article II of the Convention is deleted and replaced by the following:

The High Contracting Powers agree that, to ensure the long-term conservation of migratory birds, migratory bird populations shall be managed in accord with the following conservation principles:

To manage migratory birds internationally;

To ensure a variety of sustainable uses;

To sustain healthy migratory bird populations for harvesting needs;

To provide for and protect habitat necessary for the conservation of migratory birds; and

To restore depleted populations of migratory birds.

Means to pursue these principles may include, but are not limited to:

Monitoring, regulation, enforcement and compliance;

Co-operation and partnership;

Education and information;

Incentives for effective stewardship;

Protection of incubating birds;

Designation of harvest areas;

Management of migratory birds on a population basis;

Use of aboriginal and indigenous knowledge, institutions and practices; and Development, sharing and use of best scientific information.

1. Except as provided for below, there shall be established the following close seasons during which no hunting shall be done:

(a) The close season on migratory game birds shall be between March 10 and September 1, and the season for hunting shall be further restricted to such period not exceeding three and one-half months as the High Contracting Powers may severally deem appropriate and define by law or regulation; and

(b) The close season on migratory insectivorous birds and other migratory nongame birds shall continue throughout the year.

2. Except as provided for below, migratory birds, their nests, or eggs shall not be sold or offered for sale.

3. Subject to laws, decrees or regulations to be specified by the proper authorities, the taking of migratory birds may be allowed at any time of the year for scientific, educational, propagative, or other specific purposes consistent with the conservation principles of this Convention.

4. Notwithstanding the close season provisions in paragraph 1 and the prohibition on the taking of eggs in Article V, and respecting aboriginal and indigenous knowledge and institutions:

(a) In the case of Canada, subject to existing aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, and the regulatory and conservation regimes defined in the relevant treaties, land claims agreements, self-government agreements, and co-management agreements with Aboriginal peoples of Canada:

(i) Migratory birds and their eggs may be harvested throughout the year by Aboriginal peoples of Canada having aboriginal or treaty rights, and down and inedible by-products may be sold, but the birds and eggs so taken shall be offered for barter, exchange, trade or sale only within or between Aboriginal communities as provided for in the relevant treaties, land claims agreements, self-government agreements, or co-management agreements made with Aboriginal peoples of Canada; and

(ii) Migratory game and non-game birds and their eggs may be taken throughout the year for food by qualified non-aboriginal residents in areas of northern Canada where the relevant treaties, land claims agreements, self-government agreements, or co-management agreements made with Aboriginal peoples of Canada recognize that the Aboriginal peoples may so permit. The dates of the fall season for the taking of migratory game birds by qualified residents of Yukon and the Northwest Territories may be varied by law or regulation by the proper authorities. The birds or eggs taken pursuant to this sub-paragraph (ii) shall not be sold or offered for sale.

(b) In the case of the United States:

(i) Migratory birds and their eggs may be harvested by the indigenous inhabitants State of Alaska. Seasons and other regulations implementing the non-wasteful taking of migratory birds and the collection of their eggs by indigenous inhabitants of the State of Alaska shall be consistent with the customary and traditional uses by such indigenous inhabitants for their own nutritional and other essential needs; and

(ii) Indigenous inhabitants of the State of Alaska shall be afforded an effective and meaningful role in the conservation of migratory birds including the development and implementation of regulations affecting the non-wasteful taking of migratory birds and the collection of their eggs, by participating on relevant management bodies.

5. Murres may be taken by non-aboriginal residents of the province of Newfoundland and Labrador for food, subject to regulation, during the period from September 1 to March 10, but the murres so taken shall not be sold or offered for sale. The season for murre hunting shall be further restricted to such period not exceeding three and one-half months as the proper authorities may deem appropriate by law or regulation.

ARTICLE III

Article III of the Convention is deleted and replaced by the following:

The High Contracting Powers agree to meet regularly to review progress in implementing the Convention. The review shall address issues important to the conservation of migratory birds, including the status of migratory bird populations, the status of important migratory bird habitats, the effectiveness of management and regulatory systems and other issues deemed important by either High Contracting Power. The High Contracting Powers agree to work cooperatively to resolve identified problems in a manner consistent with the principles underlying this Convention and, if the need arises, to conclude special arrangements to conserve and protect species of concern.

ARTICLE IV

Article IV of the Convention is deleted and replaced by the following:

Each High Contracting Power shall use its authority to take appropriate measures to preserve and enhance the environment of migratory birds. In particular, it shall, within its constitutional authority:

(a) seek means to prevent damage to such birds and their environments, including damage resulting from pollution;

(b) endeavour to take such measures as may be necessary to control the importation of live animals and plants which it determines to be hazardous to the preservation of such birds;

(c) endeavour to take such measures as may be necessary to control the introduction of live animals and plants which could disturb the ecological balance of unique island environments; and

(d) pursue cooperative arrangements to conserve habitats essential to migratory bird populations.

ARTICLE V

Article V of the Convention is deleted and replaced by the following:

The taking of nests or eggs of migratory game or insectivorous or nongame birds shall be prohibited, except for scientific, educational, propagating or other specific purposes consistent with the principles of this Convention under such laws or regulations as the High Contracting Powers may severally deem appropriate, or as provided for under Article II, paragraph 4.

ARTICLE VI

This Protocol is subject to ratification. This Protocol shall enter into force on the date the Parties exchange instruments of ratification, shall continue to remain in force for the duration of the Convention and shall be considered an integral part of the Convention particularly for the purpose of its interpretation.

IN WITNESS WHEREOF the undersigned representatives, being duly authorized by their respective Governments, have signed the present Protocol.

DONE at Washington, this 14th day of December, 1995, in duplicate, in the English and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:
[Signature]

FOR THE GOVERNMENT OF
CANADA
[Signature]

BILATERAL

CANADA

FISHERIES

Framework between the National Marine Fisheries Service of the United States and the Department of Fisheries and Oceans of Canada for Cooperation on Fisheries Scientific Research and Advice in the Northwest Atlantic, Silver Spring and Ottawa, 1995

Done at Silver Spring and Ottawa 13 March and 10 April 1995

Entered into force 10 April 1995

Primary source citation: Copy of text provided by the U.S. Department of State

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910

THE DIRECTOR

Honorable William A. Rowat
Deputy Minister
Department of Fisheries and Oceans
200 Kent Street
Ottawa, Ontario, Canada K1A 0E6

Dear Mr. Deputy Minister:

During a October 21, 1993, meeting in East Boston, representatives of our two Agencies agreed that it would be useful to memorialize the forms of our ongoing scientific cooperation regarding northwest Atlantic fisheries. The result of efforts to do so is the enclosure. I propose that, by this letter and your response to it, our two Agencies agree to cooperate as described in the enclosed "Framework for Cooperation on Fisheries Scientific Research and Advice in the Northwest Atlantic" for a period of 5 years. I anticipate that our organizations will at that point review our experiences and consider extending and expanding these arrangements.

Sincerely,

[Signature]
Rolland A. Schmitten

Enclosure

Framework for Cooperation on Fisheries Scientific Research and Advice in the Northwest Atlantic

Canada and the United States share interest in the conservation of transboundary stocks of fish and shellfish of commercial and recreational importance to each country.

The Department of Fisheries and Oceans, Canada, and the National Marine Fisheries Service, United States of America, each have separate and distinct approaches to managing these stocks.

The two Agencies will strive to improve the understanding of each other's fishery management objectives, regulations, and scientific information.

The two Agencies will share and cooperate in the development of scientific information by:

1) annually convening a joint assessment workshop at which the scientists of the two Agencies will share information on catch, population parameters, fishing mortality, assessment methodologies, forecasting, and other information on transboundary stocks which is required to manage such stocks rationally, and

2) participating in each other's process for the assessment of stock status.

Fisheries and Oceans / Pêches et Océans

Science / Science

Assistant Deputy Minister / Sous-ministre adjoint

AVR
APR 10 1995

Mr. Rolland A. Schmitten
Director
National Marine Fisheries Service
1335 East-West Highway
Silver Springs, Maryland, U.S.A.
20910

Dear Mr. Schmitten:

The Deputy Minister has asked me, as Assistant Deputy Minister for Science to respond to your letter of March 13, 1995, advising that your agency (NMFS) is willing to enter into a cooperation agreement on fisheries research (the attached "Framework for Cooperation on Fisheries Scientific Research and Advice in the Northwest Atlantic").

I wholeheartedly agree with this approach for the next five years. This will provide both our organizations, by the turn of the century, a much better understanding of each others' fishing management objectives, regulations and scientific information on the status of fisheries resources.

Yours sincerely,

[Signature]
L.S. Parsons

/jsb

Ottawa, Canada
K1A 0E6

Agreement Amending Annex B of the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges of 26 May 1981, Washington, DC, 1997

Done at Washington, DC 3 and 9 October 1997

Entered into force 9 October 1997

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

[October 3, 1997]

Excellency:

I have the honor to refer to the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981 ("the Treaty"). As contemplated in Article VII of the Treaty, I have the honor to propose, on behalf of the Government of the United States of America, that Annex B of the Treaty be amended to read as follows:

"Annex B

1. Fishing vessels of the United States of America shall, pursuant to Article II, be authorized to enter the following ports located in Canada:

Coal Harbour
Port Hardy
Prince Rupert
Victoria
Vancouver
Ucluelet

2. Canadian fishing vessels shall, pursuant to Article III, be authorized to enter the following ports located in the United States of America:

Astoria
Bellingham
Coos Bay

Eureka
Newport
Westport"

If this proposal is acceptable to the Government of Canada, I have the further honor to propose that this note, together with Your Excellency's favorable reply, shall constitute an Agreement between our two Governments, which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

[Signature]
His Excellency,
Raymond Chretien,
Ambassador of Canada.

Canadian Embassy
Ambassade du Canada

Note No. 0314

Madam Secretary of State,

I have the honour to acknowledge receipt of your Note, concerning the Treaty between the Government of Canada and the Government of the United States of America on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, which reads as follows:

"I have the honor to refer to the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981 ("the Treaty"). As contemplated in Article VII of the Treaty, I have the honor to propose, on behalf of the Government of the United States of America, that Annex B of the Treaty be amended to read as follows:

"Annex B

1. Fishing vessels of the United States of America shall, pursuant to Article II, be authorised to enter the following ports located in Canada:

Coal Harbour
Port Hardy
Prince Rupert
Victoria
Vancouver
Ucluelet

2. Canadian fishing vessels shall, pursuant to Article III, be authorised to enter the following ports located in the United States of America:

Astoria
Bellingham
Coos Bay
Eureka
Newport
Westport"

If this proposal is acceptable to the Government of Canada, I have the further honor to propose that this note, together with Your Excellency's favorable reply, shall constitute an Agreement between our two Governments, which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honour to advise you that the Government of Canada has accepted the proposal, and, accordingly, your Note and this Note in reply, which is equally authentic in English and French, shall constitute an Agreement between our two Governments, which shall enter into force on the date of this reply.

Accept, Madam Secretary, the renewed assurances of my highest consideration.

Washington, D.C., October 9, 1997

Your sincerely,

[Signature]
D.G. Waddell
Minister (Economic)
and Deputy Head of Mission

The Honourable Madeleine Korbel Albright
Secretary of State

Agreement Extending the Interim Agreement of 3 February 1995 between the United States and Canada for the Conservation of Salmon Stocks Originating in the Yukon River, Washington, DC, 1997

Done at Washington, DC 23 and 24 December 1997

Entered into force 24 December 1997

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

December 23, 1997

Excellency:

I have the honor to refer to the Interim Agreement on salmon stocks originating in the Yukon River, set forth in the exchange of notes between the United States and Canada on February 3, 1995. By its terms, the Interim Agreement shall remain in force until December 31, 1997, unless the Parties agree in writing to extend it.

I further have the honor to propose that the Interim Agreement be extended through March 31, 1998. The extension would preserve the benefits of joint cooperation that derive from existing arrangements and permit further negotiations on a long-term agreement. If this proposal is acceptable to the Government of Canada, I propose further that this note, together with Your Excellency's note in reply, shall constitute an agreement between our two Governments to extend the Interim Agreement, which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

[Signature]

His Excellency,

Raymond A. J. Chretien,

Ambassador of Canada.

Canadian Embassy
Ambassade du Canada

Washington, December 24, 1997

Excellency,

I have the honour to refer to your Note, dated December 23, 1997, which reads as follows:

"I have the honor to refer to the Interim Agreement on salmon stocks originating in the Yukon River, set forth in the exchange of notes between the United States and Canada on February 3, 1995. By its terms, the Interim Agreement shall remain in force until December 31, 1997, unless the Parties agree in writing to extend it.

I have the honor to propose that the Interim Agreement be extended through March 31, 1998. The extension would preserve the benefits of joint cooperation that derive from existing arrangements and permit further negotiations on a long-term agreement. If this proposal is acceptable to the Government of Canada, I propose further that this note, together with your Excellency's note in reply, shall constitute an Agreement between our two Governments to extend the Interim Agreement, which shall enter into force on the date of your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honour to advise your Excellency that the Government of Canada accepts the proposal, and, accordingly, your Excellency's note and this note in reply, which is equally authentic in English and French, shall constitute an Agreement between our two Governments to extend the Interim Agreement through March 31, 1998.

Accept, Excellency, the renewed assurances of my highest consideration.

[Signature]
Raymond Chrétien
Ambassador of Canada

The Honourable Madeleine Korbel Albright
Secretary of State

Amendment to Annex IV of the Treaty between the United States and Canada concerning Pacific Salmon of 28 January 1985, Washington, DC, 1998

Done at Washington, DC 24 July and 12 August 1998

Entered into force 12 August 1998

Primary source citation: Copy of text provided by the U.S. Department of State

Canadian Embassy
Ambassade du Canada

August 12, 1998

NOTE NO. 0317

Madam Secretary,

I have the honour to refer to your Note of July 24, 1998, concerning the Treaty between the Government of Canada and the Government of the United States of America concerning Pacific Salmon, signed in Ottawa on January 28, 1985, and to the recommendations made by the Pacific Salmon Commission in their identical letters of July 9, 1998, to the Minister of Foreign Affairs, The Honourable Lloyd Axworthy and the Secretary of State, The Honourable Madeleine Albright, in accordance with Article XIII of the Treaty. (A copy of the letter to Secretary Albright is attached to the Note.)

I have the further honour to agree that, in accordance with Article XIII, paragraph 3, of the Treaty, Annex IV, Chapter 6, be extended for the 1998 fishing season and Annex IV, Chapter 4, be amended as set forth in the Pacific Salmon Commission's letter of July 9, 1998.

I have the further honour to confirm that your Note, together with the Pacific Salmon Commission's letter of July 9, 1998, and this reply, shall constitute an Agreement between our two Governments, which shall enter into force on the date of this Note.

Please accept, Madam Secretary, the renewed assurances of my highest consideration.

[Signature]
Raymond Chrétien
Ambassador

The Honourable Madeleine Korbel Albright
Secretary of State
Washington, D.C.

DEPARTMENT OF STATE
WASHINGTON

July 24, 1998

Excellency:

I have the honor to refer to the Treaty between the United Stated and Canada concerning Pacific Salmon, signed at Ottawa on January 28, 1985, and to the recommendations made by the Pacific Salmon Commission (PSC) in their letter of July 9, 1998, in accordance with Article XIII, paragraphs 2 and 3 of the Treaty.

In accordance with Article XIII, paragraph 3 of the Treaty, I have the further honor to propose that Annex IV, Chapter Six of the Treaty be extended for the 1998 fishing season, and that Annex IV, Chapter 4 be amended as set forth in the attachment to the Note, consistent with the recommendations contained in the Pacific Salmon Commission letter of July 9, 1998.

I have the further honor to propose that if this proposal is acceptable to the Government of Canada, this note, with its attachment, and Your Excellency's reply shall constitute an agreement between our two Governments, which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:
[Signature]

His Excellency,

Raymond A. J. Chretien,

Ambassador of Canada.

July 9, 1998

The Honorable Madeleine Albright
Secretary of State
U.S. Department of State
2201 C Street N.W.
Washington, D.C. 20520

Dear Madam:

I have the honor to report to you understandings reached by representatives of the Governments of Canada and the United States regarding certain of the fishery regimes in Annex IV of the Pacific Salmon Treaty, and agreed to by the Chair and Vice-Chair of the Pacific Salmon Commission.

This interim agreement is for 1998 only, and reflects the Parties' interest in conservation and orderly fisheries while they continue negotiations to achieve their long-term objectives. The agreement set forth herein was reached without prejudice to any position to be taken by either Party on any fishery in the future, and shall not be construed as an indication of an acceptable long-term approach to either Parties' objectives.

With respect to Annex IV, Chapter 6 (southern chum), and without prejudice to any future agreements, Canada and the United States shall manage their respective fisheries in a manner that comports with the most-recently expired Annex arrangements.

With respect to Annex IV, Chapter 4 (Fraser sockeye and pink salmon) Canada and the U.S. have agreed for 1998:

1. The Fraser Panel shall manage U.S. commercial net fisheries in panel waters as follows:

   a) U.S. gill net and purse seine fisheries in Areas 6, 7 and 7A will be open Monday through Friday of each week during the period July 27 through August 21, and will remain closed at all other times during the Panel control period;

   b) U.S. reef net fishery in Areas 7 and 7A will be open Saturdays and Sundays July 25 through August 23, and will remain closed at all other times during the Panel control period;

   c) The treaty Indian fishery in Areas 4B, 5 and 6C will be open noon Sundays through noon Fridays July 26 through August 21, and will remain closed at all other times during the Panel control period;

   d) Notwithstanding the above schedule, the U.S. catch in Panel waters shall not exceed 24.9% of the TAC (Total Allowable Catch);

   e) In implementing the above schedule, the Fraser Panel shall operate according to its usual policies and practices. This schedule may be modified by agreement of the panel if necessary to achieve spawning escapement objectives and Aboriginal food, social and ceremonial requirements, taking into account in-season information. In addition, the panel may modify the above schedule, if necessary, to ensure the 24.9% catch limit is not exceeded, and to avoid taking an excessive portion of the U.S. harvest in any weekly time period, the intent being to distribute the U.S. catch over the period during which the U.S. fishery is open.

2. The Fraser Panel shall manage Canadian net fisheries in panel waters and Canada shall manage Canadian fisheries outside panel waters in a manner that anticipates and accommodates catches in the U.S. fisheries described in the above schedule, i.e., does not result in harvest of the available TAC to the extent that those U.S. fisheries would need to be shortened for conservation reasons.

3. For the purpose of this Chapter, total allowable catch (TAC) shall be defined as the remaining portion of the annual aggregate Fraser River sockeye and pink runs after the spawning escapements, the agreed Fraser River Aboriginal Exemption, and the catch in Panel authorized test fisheries have been deducted. The following definitions apply to TAC calculation: .

   (a) For the purposes of in-season management by the Fraser Panel, the spawning escapement objective is the target set by Canada including any extra requirements that may be determined by Canada and agreed to by the Fraser Panel, for natural, environmental, or stock assessment factors, to ensure the fish reach the spawning grounds at target levels. Any additional escapement amounts believed necessary by Canada for reasons other than the foregoing will not affect the U.S. catch;

   (b) The agreed Fraser River Aboriginal Fishery Exemption is that number of sockeye which is subtracted from the total run size in determining the TAC. Any Canadian harvests in excess of these amounts count against the TAC, and do not affect the U.S. share. The agreed Fraser River Aboriginal Fishery Exemption is 400,000 sockeye for 1998.

   (c) For computing TAC by stock management groupings, the Fraser River Aboriginal Fishery Exemption shall be allocated to management groups using the average proportional distribu-

tion of this harvest for the three cycles prior to 1985, unless otherwise agreed.

4. Canada and the U.S. agree that the dispute referred to in Canada's note 189 of November 24, 1992 and the U.S. Department of State's note of December 8, 1992, will be addressed in negotiations on arrangements for future years.

5. The Fraser Panel will develop fishing plans and in-season decision rules as may be necessary to implement the intent of this agreement.

The Pacific Salmon Commission expects that the relevant management agencies in Canada and the United States will manage fisheries under their responsibility consistent with these understandings.

The Commission respectfully requests your early approval of these recommendations.

Sincerely,
PACIFIC SALMON COMMISSION

[Signature]
J. Pipkin
Chair

BILATERAL

CANADA

POLLUTION OF THE ENVIRONMENT

Agreement between the Governments of the United States and Canada on a Full and Final Settlement of All Claims for Costs of Environmental Clean-up at Four Former U.S. Military Installations in Canada, Washington, DC, 1996

Done at Washington, DC 7 and 9 October 1996

Entered into force 9 October 1996

Primary source citation: Copy of text provided by the U.S. Department of State

DEPARTMENT OF STATE
WASHINGTON

October 7, 1996

Excellency:

I have the honor to refer to discussions which have taken place between representatives of the Government of the United States of America and the Government of Canada concerning the settlement of certain costs of environmental clean-up at four former U.S. military installations in Canada.

As you know, our Department of Defense follows a policy of risk management, remediating environmental damage that constitutes a substantial endangerment to human health and safety. Based upon this policy, the U.S. Government believes that $100 million (constant-year 1995-1996 United States dollars) represents an appropriate settlement amount for clean-up at the four former military installations: the 21 Dew Line sites returned to Canada between 1989 and 1993 as described in the appendix; the former U.S. naval facility at Argentia, except for approximately 33 acres of land retained as specified at paragraph 1.4.3 of the United States Navy's Base Realignment Plan of May 22, 1993, pursuant to Article 21 of the Leased Naval and Air Bases Agreement of 27 March 1941 between the United States and the United Kingdom; a section of the Canadian Forces Base at Goose Bay, Labrador; and the Raines-Fairbanks pipeline.

It is the view of the United States Government that it has no legal obligation under current United States and international law to reimburse the costs of environmental clean-up at the four former military installations described above. Nevertheless, because the remediation in question concerns work that would ordinarily have been conducted by United States forces at the four installations in Canada prior to their closure, the United States Government shall make an ex gratia settlement in the sum of $100 million (constant-year 1995-1996 United States dollars). It would be the United States Government's intent to place funds equalling this amount in the Canadian Foreign Military Sales Trust Account over a ten-year period commencing in U.S. fiscal year 1998.

In the absence of legislative authority, the United States Government's ex gratia offer must necessarily be subject to the obtaining of specific legislative authority from the United States Congress. Such Congressional

action (i.e., authorizations and appropriations) lies within the discretion of the Congress. Nevertheless, the United States Government undertakes to seek such legislative authority at an early date.

The points of contact for implementation of this Agreement shall be the Principal Assistant Deputy Under Secretary of Defense for Environmental Security for the Government of the United States of America, and the Assistant Deputy Minister, Infrastructure and Environment, Department of National Defense for the Government of Canada. With regard to the four aforementioned installations, these officials shall be authorized to implement this Agreement fully, including, as mutually agreed, the establishment of and the making of adjustments to, the schedule of payments that are to be made into the Canadian Foreign Military Sales Trust Account.

If the foregoing meets with the approval of the Government of Canada, I have the honor to propose that this note and Your Excellency's affirmative note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of Your Excellency's note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Acting Secretary of State:

[Signature]

His Excellency

Raymond Chrétien,

Ambassador of Canada.

Appendix to the U.S. Note

List of DEW Line Sites

Komakuk Beach	BAR-1
Shingle Point	BAR-2
Tuktoyaktuk	BAR-3
Nicholson Point	BAR-4
Cape Parry	PIN-M
Clinton Point	PIN-1
Cape Young	PIN-2
Lady Franklin Point	PIN-3
Byron Bay	PIN-4
Cambridge Bay	CAM-M
Jenny Lind Island	CAM-1
Gladman Point	CAM-2
Shepherd Bay	CAM-3
Pelly Bay	CAM-4
Mackar Inlet	CAM-5
Hall Beach	FOX-M

Longstaff Bluff	FOX-2
Dewar Lakes	FOX-3
Cape Hooper	FOX-4
Broughton Island	FOX-5
Cape Dyer	DYE-M

Canadian Embassy
Ambassade du Canada

NOTE NO. 0318

EXCELLENCY:

I have the honour to acknowledge receipt of your Excellency's note of October 7, 1996, concerning environmental issues at the four former U.S. military installations in Canada mentioned in your note.

I have the honour to inform you that the United States Goverment's proposal contained therein is acceptable to the Government of Canada. However, contrary to the views of the United States Government, it is the view of the Government of Canada that the Government of the United States has legal obligations under international law to pay claims for the environmental clean-up of these former U.S. military installations.

I wish to assure you that the Government of Canada understands that the specific legislative authority, i.e. authorizations and appropriations, to which the United States' *ex gratia* settlement is subject shall be a matter for decision by the United States Congress. The Government of Canada also understands that payment in full of the *ex gratia* settlement shall constitute a full and final settlement of all claims for costs of environmental clean-up at the four installations described.

I have the honour to confirm that your note and this reply, done in duplicate in English and French, shall constitute an Agreement between the Governments of the United States and Canada on this matter, that enters into force on this date.

Accept, Excellency, the renewed assurances of my highest consideration.

[Seal]

Washington, D.C.

October 9, 1996

BILATERAL

CANADA

NON-BINDING

Framework for Cooperation between the U.S. Department of the Interior and Environment Canada in the Protection and Recovery of Wild Species at Risk, Washington, DC, 1997

Done at Washington, DC 7 April 1997

Primary source citation: Copy of text provided by the U.S. Department of State

The goal of this framework is to prevent populations of wild species shared by the United States and Canada from becoming extinct as a consequence of human activity, through the conservation of wildlife populations and the ecosystems on which they depend.

THE UNITED STATES AND CANADA:

- share a common concern for and commitment to the protection and recovery of wild species at risk of extinction;
- have a long history of cooperation in the management of shared populations of wildlife and plants, as demonstrated by collaborative efforts for the recovery of endangered migratory species such as the whooping crane (*Grus americana*) and the piping plover (*Charadrius melodus*);
- recognize that greater success in protecting and recovering shared populations of species at risk can be achieved through cooperative, coordinated action; and
- acknowledge that conservation action is most often effective when implemented using a multi species approach at the landscape level.

THE UNITED STATES DEPARTMENT OF THE INTERIOR AND ENVIRONMENT CANADA ANNOUNCE A FRAMEWORK FOR COOPERATIVE ACTION TO:

I. facilitate the exchange of information and technical expertise regarding the conservation of species at risk and their habitat;

II. harmonize the evaluation and identification of such species;

III. provide a means of identifying species at risk that require bilateral action;

IV. promote the development and implementation of joint or multi-national recovery plans for species identified as endangered or threatened;

V. encourage expanded and more effective partnerships between our two agencies and states, provinces, and territorial, aboriginal and tribal governments, and the private sector (individuals, conservation groups, cor-

porations, etc.) in recovery efforts;

VI. create greater public awareness and involvement regarding the need to conserve wildlife populations and the ecosystems on which they depend, and to prevent the loss of shared species; and

VII. use the cooperative arrangements established in the Trilateral Committee for Wildlife and Ecosystem Conservation and Management to provide a mechanism for establishing mutual priorities, coordinating recovery actions, and ensuring efficient use of available resources for the protection and recovery of species at risk.

The implementing agencies for this framework are the U.S. Fish and Wildlife Service of the U.S. Department of the Interior and the Canadian Wildlife Service of Environment Canada.

In recognition of the continental nature and importance of many species at risk, and existing partnerships, the United States and Canada intend to invite the participation of Mexico in this framework.

Signed at Washington, D.C.
This 7th day of April 1997;

FOR THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

[Signature]
Secretary Bruce Babbitt

FOR CANADA
DEPARTMENT OF THE ENVIRONMENT

[Signature]
Minister Sergio Marchi

Program to Develop Joint Plan of Action for Addressing Transboundary Air Pollution, Washington, DC, 1997

Done at Washington, DC 7 April 1997

Primary source citation: Copy of text provided by the U.S. Department of State

Air pollution that affects public health and the environment knows no political boundaries. Over the years, Canada and the United States have made significant progress in reducing acid rain and improving the quality of the air over North America. We commit ourselves to providing clean, healthy air for all of our citizens and to achieving these air quality goals through cost effective, common-sense approaches. Canada and the United States are commencing development of a joint plan of action to provide optimal approaches for addressing transport of ozone and particulate matter. The following steps are envisaged for developing the plan of action:

- analyze transboundary emission reduction scenarios for ozone and particulate matter,
- investigate the extent to which emission management frameworks being established under the U.S. CAAAC[1] and OTAG[2] process might be applied in a transboundary context and coordinated with Canadian regional smog management programs,
- assess the degree to which the emission trading framework being considered under OTAG could be applied in a transboundary context,
- identify legal, administrative and environmental issues with transboundary emissions trading and joint air quality management and suggest options for resolution,
- examine optimal transboundary management mechanisms that might be established involving partnerships between states and provinces in selected boundary regions,
- develop options for consideration of potential annexes to the Canada/U.S. Air Quality Agreement on fine particles and ozone,
- summarize the results of the above into a joint plan of action defining optimal approaches and next steps towards transboundary management of ozone and particulate matter

[Signature]
Carol Browner
Administrator
Environmental Protection Agency

Date: April 7, 1997

[Signature]
Hon. Sergio Marchi
Minister of the Environment

Date: April 7, 1997

[1] Clean Air Act Advisory Committee, Subcommittee on Ozone, Particulate Matter and Regional Haze Implementation Programs
[2] Ozone Transport Assessment Group

The Great Lakes Binational Toxics Strategy, Washington, DC, 1997

Done at Washington, DC 7 April 1997

Primary source citation: Copy of text provided by the U.S. Department of State

UNITED STATES - CANADA STRATEGY FOR THE VIRTUAL ELIMINATION OF PERSISTENT TOXIC SUBSTANCES IN THE GREAT LAKES

Purpose

In keeping with the objective of the *Revised Great Lakes Water Quality Agreement of 1978, as amended by Protocol signed November 18, 1987* (1987 GLWQA) to restore and protect the Great Lakes, the purpose of this binational strategy (the Strategy) is to set forth a collaborative process by which Environment Canada (EC) and the United States Environmental Protection Agency (USEPA), in consultation with other federal departments and agencies, Great Lakes states, the Province of Ontario, Tribes, and First Nations, will work in cooperation with their public and private partners toward the goal of virtual elimination of persistent toxic substances resulting from human activity, particularly those which bioaccumulate, from the Great Lakes Basin, so as to protect and ensure the health and integrity of the Great Lakes ecosystem. In cases where this Strategy addresses a naturally-occurring substance, it is the anthropogenic sources of pollution that, when warranted, will be targeted for reduction through a life-cycle management approach so as to achieve naturally-occurring levels. An underlying tenet of this Strategy is that the governments cannot by their actions alone achieve the goal of virtual elimination. This Strategy challenges all sectors of society to participate and cooperate to ensure success.

The goal of virtual elimination will be achieved through a variety of programs and actions, but the primary emphasis of this Strategy will be on pollution prevention. This Strategy reaffirms the two countries' commitment to the sound management of chemicals, as stated in *Agenda 21: A Global Action Plan for the 21st Century* and adopted at the 1992 United Nations Conference on Environment and Development. The Strategy will also be guided by the principles articulated by the International Joint Commission's (IJC) Virtual Elimination Task Force (VETF) in the *Seventh Biennial Report on Great Lakes Quality*.

This Strategy has been developed under the auspices of the Binational Executive Committee (BEC), which is charged with coordinating the implementation of the binational aspects of the 1987 GLWQA. The BEC is co-chaired by EC and USEPA, and includes members of the Great Lakes states, the Province of Ontario, and other federal departments and agencies in Canada and the United States (U.S.).

Environmental Context

The Great Lakes are an extraordinary natural endowment, holding 18 percent of the world's supply of surface fresh water. They are home to 33 million people, 47 percent of whom draw their drinking water from the Lakes. The Great Lakes are also vital to many North American fish and wildlife species. Their wealth of natural resources has long made the region a heartland of economic strength.

During the 1970s, it became apparent that pollution caused by persistent toxic substances was harming Great Lakes species and posing risks to human and wildlife consumers of fish. Accordingly, under the *Great Lakes Water Quality Agreement of 1978*, the U.S. and Canada pledged to seek the virtual elimination of the discharge of persistent toxic substances to the Great Lakes.

The risks to human, fish and wildlife health came to the fore again during the 1980s when public attention became focused on the Niagara River and Lake Ontario. These concerns led to the negotiation and signing, separate from the 1987 GLWQA, of the four-party *Niagara River Declaration of Intent* (DOI) in 1987, and the development of the Lake Ontario Toxics Management Plan, which has been incorporated into the Lake Ontario Lakewide Management Plan (LaMP) program.

The 1987 GLWQA established a process, set of commitments, and general principles for developing and implementing Remedial Action Plans (RAPs) for geographic Areas of Concern (AOCs) and LaMPs.

In 1991, in response to a recommendation from the IJC, the governments of Canada, the U.S., Michigan, Minnesota, Ontario and Wisconsin developed the Binational Program to Restore and Protect the Lake Superior Basin (Binational Program). The purpose of the Binational Program was to protect the high quality waters of the Lake Superior Basin, to restore degraded areas therein, and to achieve zero discharge of designated persistent and bioaccumulative toxic substances from point sources in the Basin.

In 1994, the *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* (COA) was established to ensure implementation of the requirements of the 1987 GLWQA. In 1995, in the U.S., the final *Water Quality Guidance for the Great Lakes System* (GLI) was published, establishing a process for developing consistent water quality standards across the Great Lakes system. The Strategy builds on and complements all of these efforts.

Significant successes in reducing persistent toxic substances in the Great Lakes include cleanup of contaminated sediment sites at Great Lakes harbors, reduced levels of PCBs, dioxins and DDT, and improved sport fisheries. Researchers have also observed an increase in the number of certain wildlife species (e.g., eagles and cormorants).

Even with the important accomplishments in toxics reduction achieved by the RAPs, the LaMPs, the Niagara River DOI and the Binational Program over the past decade, and the actions taken by both countries to ban, cancel, and restrict the use of a number of persistent toxic substances, these substances continue to be present in the Great Lakes ecosystem. For example, contaminated bottom sediments pollute certain harbors, impeding navigational dredging and the economic potential for use of these waters. Unacceptable levels of PCBs, methyl mercury, and toxaphene require the continued issuance of fish consumption advisories, suppressing the economic potential of the region's fisheries industries and presenting a continued human health risk. More recently, there has been growing public concern about, and active government investigation into, toxic pollutants that may produce non-cancerous health effects in wildlife and in humans, including reproductive and hormonal disruption and learning disabilities.

The continuing presence of these persistent toxic substances is the result of atmospheric deposition, release from contaminated bottom sediments, releases from various industrial processes, releases from non-point sources, and continuous cycling of naturally-occurring and anthropogenic substances within the Great Lakes themselves. In some cases, there may also be illegal or accidental discharge of stored substances for which production and use has previously been canceled or banned. All of these factors highlight the need for more to be done.

This Strategy acknowledges and builds on the existing Canadian and U.S. regulatory programs which address the targeted substances. In Canada, these include the programs under the Canadian Environmental Protection Act, the Fisheries Act, the Canadian Environmental Assessment Act, the Pest Control Products Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, the Ontario Environmental Assessment Act, and an array of other federal and provincial acts which bear on protection of the Great Lakes Basin Ecosystem from the polluting effects of these substances. In the U.S., these include the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and other regulatory programs. Both countries acknowledge that more needs to be done.

The "unfinished business" of virtually eliminating persistent toxic substances in the Great Lakes Basin remains a significant challenge. To contribute to the resolution of this problem, more strategic and coordinated interventions are required at various geographic scales, from the local watershed/AOC to the lakewide, basin-wide, national, and international arenas. Movement of persistent toxic substances does not respect jurisdictional or geographic borders. In particular, the inter-basin transfer of persistent toxic substances from one take to another and the short- and long-range movement and deposition of these substances from the air have compelled EC and USEPA to develop this coordinated binational Strategy.

The Strategy is intended to encourage ongoing programs or emerging initiatives to better address toxic releases; to provide a context of basin-wide goals for localized actions; and to provide "out of basin" support to Great Lakes

Basin programs such as LaMPs and RAPs.

Approach to Virtual Elimination

In Article II(a) of the 1987 GLWQA, the two countries agreed that "...the discharge of any and all persistent toxic substances be virtually eliminated" and agreed to develop programs and measures to implement the GLWQA, including "measures for the control of inputs of persistent toxic substances including control programs for their production, use, distribution, and disposal..." (GLWQA, Article VI (k)). To accomplish this objective, the IJC in 1990 urged the Parties to develop and implement "a comprehensive, binational program to lessen the uses of, and exposure to persistent toxic chemicals found in the Great Lakes environment." In their response to the IJC's *Seventh Biennial Report on Great Lakes Water Quality*, both the U.S. and Canada reaffirmed their commitment to work on such a binational Strategy, to promote implementation of commitments in the 1987 GLWQA. Since that time, both countries have undertaken their own virtual elimination efforts, Canada through its Toxic Substances Management Policy (TSMP), and the U.S. through its Virtual Elimination Pilot Project.

In February 1995, Prime Minister Chrétien and President Clinton confirmed the commitment by the U.S. and Canada to work together to develop a binational strategy to address the most persistent toxic substances in the Great Lakes environment. The two countries prepared this Strategy, building on past and ongoing virtual elimination efforts in the Basin, including the extensive work by the IJC in its framework outlined in the VETF report. The Strategy also incorporates suggestions, ideas and concepts embodied in the 6th and 7th IJC Biennial Reports.

This Strategy will follow the framework outlined in *Agenda 21: A Global Action Plan for the 21st Century* and adopted at the 1992 United Nations Conference on Environment and Development. In this framework, the U.S. and Canada (and other nations) committed where appropriate to:

> *undertake concerted activities to reduce risks for toxic chemicals, taking into account the entire life-cycle of the chemicals. These activities could encompass both regulatory and non-regulatory measures, such as promotion of the use of cleaner products and technologies; emission inventories; product labeling; use limitations; economic incentives; and the phasing out or banning of toxic chemicals that pose an unreasonable and otherwise unmanageable risk to human health and the environment, including those that are toxic, persistent and bioaccumulative and whose use cannot be adequately controlled; and*
>
> *adopt policies and regulatory and non-regulatory measures to identify, and minimize exposure to, toxic chemicals by replacing them with less toxic substitutes and ultimately phasing out the chemicals that pose unreasonable and otherwise unmanageable risk to human health and the environment and those that are toxic, persistent and bioaccumulative and whose use cannot be adequately controlled.*

This concept of Virtual Elimination, as acknowledged by the IJC and for purposes of this Strategy, also recognizes that it may not be possible to achieve total elimination of all persistent toxic substances — some may be produced by, or as a result of natural processes and so may persist at background or "natural" levels. In addition, total or complete elimination may not be possible for technological or economic reasons. In cases where the Strategy addresses a naturally-occurring substance, it is the anthropogenic sources of pollution of that particular substance which, when warranted, will be targeted for reduction through a life-cycle management approach so as to achieve naturally-occurring levels. To accomplish the objective of restoring and maintaining the integrity of the Great Lakes, the Strategy seeks to reduce and virtually eliminate the input of persistent toxic substances to the Great Lakes[1]. Virtual elimination will be sought within the most expedient time frame through the most appropriate, common sense, practical and cost-effective blend of voluntary, regulatory or incentive-based actions. All feasible options will be considered, including pollution prevention, phase-outs and bans[2].

Actions identified in this Strategy will be complemented by other existing or proposed regulatory and non-regulatory initiatives. In addition, it is anticipated that actions and challenges identified in this document will evolve

[1] Hereafter, the terms "substances" or "strategy substances" shall mean persistent toxic substances resulting from human activity, particularly those which bioaccumulate, and which are the focus of efforts under this Strategy. For further information on the meaning of persistent toxic substances, see the Glossary and Appendix I.

[2] In the U.S., existing and currently planned regulatory actions will contribute to meeting the goal of virtual elimination; however, this Strategy is not a regulatory action, nor is it expected, in and of itself, to lead to the promulgation of any rule or regulation. To the extent that regulatory actions are taken with regard to Strategy substances, they will be governed by the statutes authorizing the actions.

over time as information about opportunities, cost effectiveness, and benefits becomes available. Virtual elimination may not be achievable tomorrow, but the challenges and actions outlined in this Strategy represent significant milestones on the path toward this goal.

Analytical Framework

EC and the USEPA, in cooperation with their partners, will use a four-step process to work toward virtual elimination.

1. Information gathering

   Identify to the extent feasible, the full range of sources, both point and non-point within and outside the Basin which release the selected substances, by economic sector, and examine which sector(s) may be contributing to the presence of the substance in the Basin. Within each source, identify why and how the substance is used or released, e.g., used as a product or released as a byproduct. This step may include examining the entire life cycle of the substance, from initial decision to use through eventual disposal. Also, specific characteristics of a substance such as whether it is naturally occurring, or whether its release results from human use, will be considered. Information gaps and uncertainties as to sources, multi-media loadings and associated impacts of specific substances will be identified and actions recommended to address them.

2. Analyze current regulations, initiatives and programs which manage or control substances

   Assess how existing laws, regulations and programs influence the presence of these substances in the Basin, and their long-range transport across states, provinces, regions and international borders. Identify the gaps in these regulations, programs and initiatives that offer opportunity for the most effective and appropriate reductions of these substances.

3. Identify cost-effective options to achieve further reductions

   Identify options that may offer opportunities for new or modified measures, including emission trading schemes, pollution prevention, or other alternative approaches, which may speed up the pace or increase the level of reductions, taking into account cost effectiveness.

4. Implement actions to work toward the goal of virtual elimination

   Using cost-effective measures, recommend and implement actions that work toward the goal of virtual elimination, consistent with the approach outlined in this Strategy.

With respect to some substances, EC and USEPA have already taken one or more of these steps, as discussed further in **Attachment 1**.

Principles

This Strategy builds on the framework adopted by Canada and the U.S. and other countries around the world in Chapter 19 of Agenda 21 on Environmentally Sound Management of Toxic Chemicals, and the principles advanced by the IJC's VETF for a virtual elimination strategy. Therefore, it is agreed that in implementing this Strategy, EC and the USEPA, in cooperation with their partners:

- recognize that the Strategy substances do not respect international boundaries; they pass between nations via the atmosphere, in shared waters, and through trade or transboundary movement of products and wastes. Therefore, the two nations cannot protect their citizens solely through bilateral actions. Canada and the U.S. will work with other nations to share scientific information and work with them toward international accords to address these substances, where appropriate. Some examples of the international efforts with which Canada and the U.S. will be coordinating include: the development of a global agreement on persistent organic pollutants (POPs), as called for in a recent meeting of the Governing Council of the United Nations Environment Programme (UNEP); the development of protocols on POPs and heavy metals under the United Nations Economic Commission for Europe (UNECE) Convention on Long Range Transboundary Air Pollution (LRTAP); cooperative actions to implement the October 1995 Resolution on the Sound

Management of Chemicals developed by the Commission for Environmental Cooperation (CEC) under the North American Agreement on Environmental Cooperation (NAAEC); and other chemicals-related activities under UNEP, the Intergovernmental Forum on Chemical Safety (IFCS) and other bodies.

- reaffirm their shared responsibility to work toward the goal of virtual elimination and to recognize that the two countries' respective domestic measures to achieve that goal must respect the institutional, environmental and socio-economic context of each country. Each country has discretion to include and act in accordance with its domestic national policies in meeting the commitments of this Strategy, recognizing the need for flexibility in determining how to meet these commitments and the possibility that some actions and challenges will evolve over time as information about opportunities, and their associated costs and benefits becomes available. Canada and the U.S. are free at all times to take actions and pursue targets more stringent than those identified in this Strategy. Each country will build on the efforts of states/provinces, industries and local communities, both within and outside the Basin.

- favor "cleaner, cheaper and smarter" ways to reduce the Strategy substances, focusing on the best opportunities across a substance's life to reduce its releases. EC and USEPA believe that pursuing a long-term, phased strategy through prevention where possible and remediation when necessary, is a common sense, practical approach to achieving environmental objectives.

- are committed to an open, interactive, public participation process, which includes issuing regular progress reports to the public. While the two federal governments must lead, they alone cannot achieve the goal of virtual elimination. Other levels of government, industry and society as a whole must share the responsibility to restore and maintain the health of the Great Lakes Basin.

- will collaborate in, and support voluntary initiatives by major use and release sectors and others to reduce and eventually eliminate the use, generation or release of Strategy substances. In the case of naturally-occurring substances, collaborative efforts will consider life-cycle management approaches to achieve the desired reductions.

Scope and Effect

Recognizing that virtual elimination is a long-term objective, this Strategy provides a framework to achieve specific actions from 1997 to 2006. These actions and goals represent milestones along the path to virtual elimination. This Strategy embraces actions to reduce and virtually eliminate persistent toxic substances resulting from human activity, particularly those which bioaccumulate, that affect or have the potential to affect the Great Lakes ecosystem, taking into account all relevant factors. In cases where this Strategy addresses a naturally-occurring substance, it is the anthropogenic sources of pollution that, when warranted, will be targeted for reduction through a life-cycle management approach so as to achieve naturally-occurring levels, This Strategy reflects the firm commitment of Canada and the U.S. to better focus and coordinate existing programs toward the goal of virtual elimination of Strategy substances, without giving rise to legal obligations on the governments or on the public. Nothing in this Strategy affects the legal status of the 1987 GLWQA.

The scope of the Strategy and its associated commitments and activities will be focused primarily on the Great Lakes Basin. However, with respect to atmospheric deposition, consistent with the provisions of Annex 15 of the GLWQA, the traditional concept of the geographic area which impacts the Basin will be expanded to recognize the long-range transport of Strategy substances adversely affecting the quality of the Great Lakes ecosystem.

To facilitate the reductions envisaged in the Strategy, EC and USEPA will work in cooperation with other responsible jurisdictions on a national and international basis, to strengthen linkages to all existing toxics reduction efforts, and to ensure that goals are harmonized and actions are coordinated to achieve environmental progress. As part of this task, EC and USEPA will work to coordinate efforts under the Strategy so that they are complementary with other international efforts cited earlier, such as efforts to develop LRTAP Convention Protocols on Persistent Organic Pollutants (POPs) and heavy metals, the CEC Resolution on the Sound Management of Chemicals, the UNEP and IFCS initiatives, and the multilateral negotiations on POPs.

This Strategy includes those actions undertaken jointly by EC, USEPA and their partners, as well as those actions undertaken individually through each nation's domestic programs and processes.

Within the context of the Strategy, EC and USEPA will seek the cooperation of their partners to address Strategy substances coming from long-range transport outside the Basin that enter the Great Lakes ecosystem, while sup-

porting and building upon the ongoing processes in the LaMPs and the RAPs to reduce "within basin" sources. It is expected that the LaMPs and RAPs will make important contributions to the goal of virtual elimination and will provide means to identify opportunities to achieve "within-basin" load reductions. The individual LaMPs will be focused on those chemicals that are of concern in that particular basin, and those which have the potential to migrate to other lakes or waterways; the LaMP reduction targets may also be more stringent than those in the Strategy. Reductions achieved through within-basin efforts will be very important to meeting the challenges, and helping to ensure the success, of this Strategy.

EC and USEPA recognize that many "critical pollutant" lists exist. For purposes of this Strategy, they have chosen to focus actions first on those substances that have been identified for priority action by multiple screening criteria and processes (see **Appendix I**). In essence, these are substances that are present in the water, sediment or aquatic biota of the Great Lakes system and that are exerting, singly or in synergistic or additive combination, a toxic effect on aquatic, animal, or human life.

"Level I" substances as listed in **Appendix I** represent the primary focus around which the governments will concentrate and lead actions and efforts. Since these Level I substances have been associated with or have the potential to cause deleterious environmental impacts because of their presence in the Basin, they represent an immediate priority and are targeted for virtual elimination through pollution prevention and other incentive-based actions that phase out their use, generation or release in a cost-effective manner within the most expedient time-frame. For anthropogenic sources of naturally-occurring substances, the Strategy will, when warranted, seek to reduce such sources so as to achieve naturally-occurring levels.

The Strategy also includes actions for a second set of substances ("Level II" substances) — listed in **Appendix I** — that have been identified by one or both countries as having the potential to significantly impact the Great Lakes ecosystem through their use and/or release. Until and unless these substances are placed on the Level I list, the governments encourage stakeholders to undertake pollution prevention activities to reduce levels in the environment of those substances nominated jointly by both countries, and to conform with the laws and policies of each country, including pollution prevention, with respect to those substances nominated by only one country.

USEPA and EC intend to consult with stakeholders on proposed changes to the lists at the biennial meeting of the State of the Lakes Ecosystem Conference (SOLEC) or another appropriate forum. Existing processes for nominating or elevating substances will be used, e.g., Bioaccumulative Chemicals of Concern (BCCs) in the U.S., TSMP, and COA in Canada, or LaMP Critical Pollutants. It is not the intent of the Strategy to initiate a new nominating process. Existing nominating and chemical screening processes already include a strong public participation component.

The two nations will share information regarding the persistence, bioaccumulation potential, and toxicity of Level II substances. In addition, EC and USEPA in cooperation with their partners will periodically examine the substances addressed by the Strategy to determine whether any Level II substances should be elevated to the Level I list, whether new substances which present threats to the Great Lakes ecosystem should be considered for inclusion on the Level I or II lists, and whether any other changes should be made. If a substance is identified as Level I the two countries will set binational virtual elimination challenges for it. Elevation to Level I or removal of a substance from Level II will be made with appropriate opportunity for public review and comment.

Challenges

EC and USEPA, working in cooperation with their partners, accept the following challenges as significant milestones on the path toward virtual elimination. These milestones will be achieved by implementing voluntary efforts to achieve reductions of particular Level I substances and through currently anticipated regulatory actions under environmental laws in both countries. In Canada, the baseline used for these milestones will be 1988, in keeping with the Accelerated Reduction and Elimination of Toxics Program (ARET) baseline and the 1987 GLWQA. For the U.S., the baseline from which reductions will be measured is unique for each substance, and is identified in **Attachment 1**; the best available data will be used, which in most cases is the most recent baseline.

As new information and data on opportunities, and their associated costs and benefits become available, EC and USEPA may revise the milestones, using a public consultation process involving their partners. In some cases, the challenges may differ between EC and USEPA based on different start dates for their respective domestic toxics reduction programs, different regulatory and legislative authorities, and different chemical data bases, baselines and inventories.

EC and USEPA will work with their partners to:

- U.S. Challenge: Confirm by 1998 that there is no longer use or release from sources that enter the Great Lakes Basin of five bioaccumulative pesticides (chlordane, aldrin/dieldrin, DDT, mirex, and toxaphene), and of the industrial byproduct/contaminant octachlorostyrene. If ongoing, long-range sources of these substances from outside of the U.S. are confirmed, work within international frameworks to reduce or phase out releases of these substances.
  Canadian Challenge: Report by 1997, that there is no longer use, generation or release from Ontario sources that enter the Great Lakes of five bioaccumulative pesticides (chlordane, aldrin/dieldrin, DDT, mirex, and toxaphene), and of the industrial byproduct/contaminant octachlorostyrene. If ongoing, long-range sources of these substances from outside of Canada are confirmed, work within international frameworks to reduce or phase out releases of these substances.

- U.S. Challenge: Confirm by 1998, that there is no longer use of alkyl-lead in automotive gasoline. Support and encourage stakeholder efforts to reduce alkyl-lead releases from other sources. Canadian Challenge: Seek by 2000, a 90 percent reduction in use, generation, or release of alkyl-lead consistent with the 1994 COA.

- U.S. Challenge: Seek by 2006, a 90 percent reduction nationally of high-level PCBs (>500 ppm) used in electrical equipment. Ensure that all PCBs retired from use are properly managed and disposed of to prevent accidental releases within or to the Great Lakes Basin.
  Canadian Challenge: Seek by 2000, a 90 percent reduction of high-level PCBs (> 1 percent PCB) that were once, or are currently, in service and accelerate destruction of stored high-level PCB wastes which have the potential to enter the Great Lakes Basin, consistent with the 1994 COA.

- U.S. Challenge: Seek by 2006, a 50 percent reduction nationally in the deliberate use of mercury and a 50 percent reduction in the release of mercury from sources resulting from human activity. The release challenge will apply to the aggregate of releases to the air nationwide and of releases to the water within the Great Lakes Basin. This target is considered as an interim reduction target and, in consultation with stakeholders, will be revised if warranted, following completion of the Mercury Study Report to Congress. Canadian Challenge: Seek by 2000, a 90 percent reduction in the release of mercury, or where warranted the use of mercury, from polluting sources resulting from human activity in the Great Lakes Basin. This target is considered as an interim reduction target and, in consultation with stakeholders in the Great Lakes Basin, will be revised if warranted, following completion of the 1997 COA review of mercury use, generation, and release from Ontario sources.

- U.S. Challenge: Seek by 2006, a 75 percent reduction in total releases of dioxins and furans (2,3,7,8-TCDD toxicity equivalents) from sources resulting from human activity. This challenge will apply to the aggregate of releases to the air nationwide and of releases to the water within the Great Lakes Basin. Seek by 2006, reductions in releases, that are within, or have the potential to enter the Great Lakes Basin, of hexachlorobenzene (HCB) and benzo(a)pyrene [B(a)P] from sources resulting from human activity. Canadian Challenge: Seek by 2000, a 90 percent reduction in releases of dioxins, furans HCB, and B(a)P, from sources resulting from human activity in the Great Lakes Basin, consistent with the 1994 COA. Actions will focus on the 2,3,7,8 substituted congeners of dioxins and furans in a manner consistent with the TSMP.

- U.S. and Canadian Challenge: Promote pollution prevention and the sound management of Level II substances, to reduce levels in the environment of those substances nominated jointly by both countries, and to conform with the laws and policies of each country, including pollution prevention, with respect to those substances nominated by only one country. Increase knowledge on sources and environmental levels of these substances.

- U.S. and Canadian Challenge: Assess atmospheric inputs of Strategy substances to the Great Lakes. The aim of this effort is to evaluate and report jointly on the contribution and significance of long-range transport of Strategy substances from world-wide sources. If ongoing long-range sources are confirmed, work within international frameworks to reduce releases of such substances.

- U.S. and Canadian Challenge: Complete or be well advanced in remediation of priority sites with contaminated bottom sediments in the Great Lakes Basin by 2006.

Priority Activities

To meet the above challenges, EC and USEPA will implement the four-step analytical framework outlined earlier and will regularly reassess progress being made. Through this framework, the governments will engage key partners, both inside and outside the Basin, in the process of setting more specific milestones and in developing and implementing solutions to achieve those milestones. Where possible, formal or informal agreements may be developed. EC and USEPA will publicly recognize the successful efforts undertaken by all segments of society.

In addition, EC and USEPA will enlist the support of municipalities, industries, product manufacturers and others outside the Basin to assist in meeting the challenges in the Strategy, especially for those substances which may be entering the Great Lakes via long-range transport, consistent with the approaches outlined in the Strategy.

Joint Progress Measurement and Reporting Activities

The following are examples of joint priority Canadian-U.S. activities. EC and USEPA will review these joint projects annually for additions and/or modifications.

It is recognized that, for some of the Level I and II substances, measurement of releases or ambient levels is not always feasible using routine sampling and analytical techniques. EC and USEPA are committed to adopting, where feasible or necessary, a range of indicators from process measurements (e.g., the number of formal or informal agreements entered into with business sectors to achieve specific reductions) to environmental endpoints (e.g., fish contaminant levels) in order to measure progress. Indicators will be identified to address the use, generation, and release of Strategy substances. The Strategy recognizes that the information contributed by our ongoing joint emissions inventory work will be extremely useful in addressing major sources within the jurisdictions bordering the Great Lakes.

To fulfill the implementation requirements of this Strategy and other critical bilateral Great Lakes activities, EC and USEPA will work with federal, state, and provincial departments and agencies, to review, within the context of existing resources, the state of Great Lakes related surveillance and monitoring programs in order to improve their coordination.

EC and USEPA commit jointly to report on progress (including release reductions leading to virtual elimination) under this Strategy at the biennial meeting of SOLEC or another appropriate forum. In addition, EC and USEPA will periodically convene a stakeholder forum to assess progress, identify new opportunities for reductions, and, if appropriate, evaluate the status of the Level I and II substances and refine the challenge milestones. These reporting mechanisms may be modified if necessary.

As well, in order to assess progress toward achieving the above commitments, EC and USEPA will establish a process for determining baseline release levels and loadings of Level I and II substances through a data synthesis and modeling effort, based on best available data and scientific information.

Significant Issues

EC and USEPA will work together to address significant toxic substances-related issues which affect the whole Great Lakes Basin throughout the implementation of this Strategy. These issues will be selected in consultation with our partners. For example, these issues may include the transboundary effects of incineration, the transboundary movement of hazardous wastes and bilateral sector-specific pollution prevention initiatives.

The technical support document (**Attachment 1**) describes more detailed action steps to be undertaken either individually by EC and USEPA, or jointly by both, in conjunction with their partners, to meet each challenge.

Approved by:

[Signed]

Carol Browner
Administrator
U.S. Environmental Protection Agency
April 7, 1997

Date

[Signed]

Sergio Marchi
Minister of the Environment
Government of Canada
April 7th/97

Date

Appendix I

PERSISTENT TOXIC SUBSTANCES FOCUSED ON BY THE *CANADA – UNITED STATES STRATEGY FOR THE VIRTUAL ELIMINATION OF PERSISTENT TOXIC SUBSTANCES IN THE GREAT LAKES*

Level I Substances

Aldrin/dieldrin
Benzo(a)pyrene {(B(a)P)}
Chlordane
DDT (+DDD+DDE)
Hexachlorobenzene (HCB)
Alkyl-lead
Mercury and mercury compounds
Mirex
Octachlorostyrene
PCBs
PCDD (Dioxins) and PCDF (Furans)
Toxaphene

Level II Substances

Cadmium and cadmium compounds
1,4-dichlorobenzene
3,3[1]-dichlorobenzidine
Dinitropyrene
Endrin
Heptachlor (+Heptachlor epoxide)
Hexachlorobutadiene (+Hexachloro-1,3 -butadiene)
Hexachlorocyclohexane
4,4[1]-methylenebis(2-chloroaniline)
Pentachlorobenzene
Pentachlorophenol
Tetrachlorobenzene (1,2,3,4- and 1,2,4,5-)
Tributyl tin

Plus PAHs as a group, including but not limited to:

Anthracene
Benzo(a)anthracene
Benzo(g,h,i)perylene
Perylene
Phenanthrene

How Strategy Substances were Selected

Level I Substances

Substances were selected on the basis of their previous nomination to lists relevant to the pollution of the Great Lakes Basin Ecosystem. These included:

- "Bioaccumulative chemicals of concern" (BCCs) from the *"Final Water Quality Guidance for the Great Lakes System,"* USEPA, March 1995;
- Substances identified by the *"Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* (COA)," 1994;
- Substances identified as critical pollutants by the International Joint Commission (IJC), 1987;
- Substances designated "Lakewide Critical Pollutants" in Lakewide Management Plans (LaMPs);

As a measure of further corroboration for their environmental impact, reference was made to the persistent organic pollutants (POPs) of concern identified in the United Nations Environment Programme Governing Council Decision 18/32 of May 1995, and incorporated into the Council of the Commission for Environmental Cooperation's *Sound Management of Chemicals* Agreement between the U.S., Canada, and Mexico (Resolution #95-5), October 1995.

The intent of the Strategy is to identify and focus efforts on those substances which are persistent and toxic, especially, but not exclusively, those which bioaccumulate. Rather than use a new screening and assessment process, the Strategy seeks to build upon the most recent and relevant science-based selection processes used in either country. These processes considered a wide range of factors such as chemical and physical properties, potential to cause cancer, toxicity, risk to human health and wildlife, presence in the environment, as well as adverse impacts observed in the environment. Asymmetries in the approaches or information used by the two nations, or in definitions of bioaccumulation produced some differences in lists identified by each country. However, because the Strategy is a binational activity, the final list of chemicals was the result of agreement on the nominations from the two countries.

Level I Substances

aldrin/dieldrin,[1,2,3,4,5]
benzo(a)pyrene[2,3,4]
chlordane[1,2,4,5]
DDT (+DDD+DDE) [1,2,3,4,5]
hexachlorobenzene [1,2,3,4,5]
Alkyl-lead [2,3,4]
mercury and compounds[1,2,3,4]
mirex[1,2,3,4,5]
octachlorostyrene[1,2,4]
PCBs[1,2,3,4,5]
PCDD (Dioxins) and PCDF (Furans)[1,2,3,4,5]
toxaphene[1,2,3,4,5]

Legend: [1]U.S. BCC
[2]Canadian COA
[3]IJC Critical Pollutant
[4]LaMP Lakewide Critical Pollutant
[5]POPs from CEC Council Resolution #95-5

Level II Substances

Level II substances are those for which one country or the other has grounds to indicate its persistence in the environment, potential for bioaccumulation and toxicity. These grounds have not as yet been sufficiently considered by both nations such that they can agree to set joint challenge goals for these substances at this time. Until and unless these substances are placed on the Level I list, the governments encourage stakeholders to undertake pollution prevention activities to reduce levels in the environment of those substances nominated jointly by both countries, and to conform with the laws and policies of each country with respect to those substances nominated by only one country.

Level II Substances

cadmium and cadmium compounds[2,4]
1,4-dichlorobenzene[2]
3,3[1]-dichlorobenzidine[2]
dinitropyrene[2]
endrin[5]
heptachlor (and heptachlor epoxide)[5]
hexachlorobutadiene and hexachloro- 1,3 -butadiene[1]
hexachlorocyclohexane[1,2,4,6]
4.4[1]-methylenebis(2-chloroaniline)[2]
pentachlorobenzene[1]
pentachlorophenol[2]
tetrachlorobenzene (1,2,3,4- and 1,2,4,5-)[1]
tributyl tin[2]
PAHs as a group, including anthracene, benzo(a)anthracene, benzo(ghi)perylene, perylene, and phenanthrene[2]

Legend:[1]U.S. BCC
[2]Canadian COA
[3]IJC Critical Pollutant
[4]LaMP Lakewide Critical Pollutant
[5]POPs from CEC Council Resolution #95-5
[6]In Canada, all agricultural pesticides were excluded from the COA Tier II list and are dealt with separate ly under COA and are not Canadian nominations to this list.

Future Changes in the Chemical Listing Process

USEPA and EC intend to consult with stakeholders on proposed changes to the lists at the biennial meeting of SOLEC or another appropriate forum. Existing processes for nominating or elevating substances will be used e.g., BCCs in the U.S., TSMP, and COA in Canada, or LaMP Critical Pollutants. It is not the intent of the Strategy to initiate a new nominating process. Existing nominating and chemical screening processes already include a strong public participation component.

The two nations will share information regarding the persistence, bioaccumulation potential, and toxicity of Level II substances. If a substance meets Level I criteria, the two countries will set binational virtual elimination challenges for it. Elevation to Level I or removal of a substance from Level II will be made with appropriate opportunity for public review and comment.

Technical Support Document **Attachment 1**

ACTIONS UNDER THE BINATIONAL STRATEGY

For the U.S.[3], the baseline from which reductions will be measured in most cases is the most recent and appropriate inventory. In the case of mercury, for example, the most recent inventory is based on estimated emissions during the early 1990s. For Canada, the baseline is defined by a 1988 emissions inventory based on the ARET program.

Canada recognizes that the GLWQA remains in perpetuity while COA expires in 2000. At that time, Canada and Ontario will review progress and assess what further steps would be required to ensure that Canada's obligations under the GLWQA and the Strategy are being met.

The following list of activities is not meant to be exhaustive or comprehensive; rather, it is illustrative of the many activities currently taking place or expected to take place. We understand that the states, Tribes, the Province of Ontario, First Nations, and Great Lakes stakeholders are undertaking many additional actions to achieve toxic reductions. For purposes of brevity, we have listed selected actions only.

U.S. Challenge: Confirm by 1998 that there is no longer use or release from sources that enter the Great Lakes Basin of five bioaccumulative pesticides (chlordane, aldrin/dieldrin, DDT, mirex, and toxaphene), and of the industrial byproduct/contaminant octachlorostyrene. If ongoing, long-range sources or these substances from outside of the U.S. are confirmed, work within international frameworks to reduce or phase out releases of these substances.

Canadian Challenge: Report by 1997, that there is no longer use, generation or release from Ontario sources that enter the Great Lakes of five bioaccumulative pesticides (chlordane, aldrin/dieldrin, DDT, mirex, and toxaphene), and of the industrial byproduct/contaminant octachlorostyrene. If ongoing, long-range sources of these substances from outside of Canada are confirmed, work within international frameworks to reduce or phase out releases of these substances.

- EC and USEPA will continue to support Great Lakes watershed "clean sweeps," which receive unwanted and hazardous agricultural chemicals for appropriate disposal. These programs have previously received sizeable quantities of these pesticides.

- EC and USEPA will undertake actions to verify that these five pesticides are no longer used or released in the Great Lakes watershed, based on the weight of evidence from use and environmental monitoring data. EC will also undertake actions to verify no commercial production, use or importation of these five pesticides in the Great Lakes watershed, based on the weight of evidence from use and environmental monitoring data. In the U.S., it is recognized that there may be continued legal use of some of these cancelled pesticides; the goal is to encourage decreased use of these products. In addition, alternative methods of disposal are encouraged.

- EC and USEPA will verify that octachlorostyrene (OCS) is no longer deliberately released to the Great Lakes watershed; efforts to eliminate OCS formation as a byproduct will be promoted.

- If ongoing local sources of toxaphene in Lakes Superior and Michigan are confirmed, undertake appropriate actions to seek reductions. If ongoing long-range sources of toxaphene are confirmed, work within international frameworks to reduce or phase out releases of the substance.

  - Assess and pursue recommendations from the joint U.S.-Canada technical workshop on toxaphene in the Great Lakes, held in Spring 1996.

  - EC and USEPA will develop and implement a joint monitoring plan through the LaMP monitoring committee to track toxaphene levels in Lake Superior. Monitoring of toxaphene in Lake Michigan and

[3]When developing the Strategy and the reduction targets, the U.S. started with the presumption that releases of the Level I substances could be reduced by roughly an order of magnitude (90 percent) by 2006. Early drafts of the Strategy contained this goal. However, analysis of baseline emissions inventories has shown in some cases that reductions of this level may not be practical from a technical or economic standpoint. For instance, an analysis of U.S. mercury emissions shows that even a considerable regulatory and pollution prevention effort is unlikely to result in reductions of 90 percent between 1991 and 2006. However, a reduction of roughly one-half from the emissions levels in the most recent mercury emissions inventory is believed to be feasible. Thus, the U.S. challenge in the binational Strategy sets a goal of 50 percent reduction in mercury emissions by 2006.

the high Arctic will be integrated with Lake Superior monitoring to track reductions in this class of pollutant.

In the United States:

- USEPA will work with stakeholders to reduce reliance on high-risk pesticides and to promote wider use of biointensive Integrated Pest Management. Additionally, USEPA will work with the states to help incorporate such concepts in the development of their State Management Plans (SMPs) to protect ground water from pesticide contamination.

In Canada:

Registration of chlordane, aldrin/dieldrin, DDT and toxaphene was voluntarily discontinued by the registrants. Mirex was never registered as a pest control product in Canada.

- The federal Pest Management Regulatory Agency (PMRA) is working with stakeholders on risk reduction strategies and to support the implementation and use of sustainable pest management strategies such as integrated pest management. Partners in these initiatives include provincial governments, both regulatory and extension programs, pesticide manufacturers, researchers, federal government departments, grower and trade associations, and environmental groups.

U.S. Challenge: Confirm by 1998, that there is no longer use of alkyl-lead in automotive gasoline. Support and encourage stakeholder efforts to reduce alkyl-lead releases from other sources.

Canadian Challenge, Seek by 2000, a 90 percent reduction in use, generation, or release of alkyl-lead consistent with the 1994 COA.

In the United States:

- In concert with stakeholders, investigate measures to reduce alkyl-lead from other sources.

In Canada:

- Provincial monitoring programs indicate a 96 percent decline in atmospheric lead levels to date.

- It is estimated that releases of alkyl-lead (1,000 kg/yr) in Ontario are almost entirely from aviation fuel. Minor generation through industrial or mining processes utilizing lead is possible and will be investigated. Elimination of alkyl-lead in aviation fuel will be investigated in partnership with responsible sources.

U.S. Challenge: Seek by 2006, a 90 percent reduction nationally of high-level PCBs (>500 ppm) used in electrical equipment. Ensure that all PCBs retired from use are properly managed and disposed of to prevent accidental releases within or to the Great Lakes Basin.

Canadian Challenge: Seek by 2000, a 90 percent reduction of high-level PCBs (>1 percent PCBs) that were once, or are currently, in service and accelerate destruction of stored high-level PCB wastes which have the potential to enter the Great Lakes Basin, consistent with the 1994 COA.

In the United States:

PCB production was banned in the U.S. in 1977; certain uses were banned while other existing PCBs could be used for the remainder of their useful, economic life. The most significant remaining use of high- and low-level PCBs is in electrical equipment. These PCBs may pose risk due to the potential for spills. This challenge goal is targeted at increasing the pace of removal of high-level PCBs in electrical equipment so as to minimize the risk of releases to the environment. The challenge goal takes into account the usual process of retiring or decommissioning electrical equipment.

Transformers: Reductions will be measured using as a baseline the estimated 200,000 transformers containing high-level PCBs in use in 1994. This figure includes an estimate of the transformers containing intentionally man-

ufactured PCBs, or askarel, and an estimate of the transformers containing mineral oil dielectric fluid contaminated to concentrations greater than 500 ppm. In striving to reduce the number of transformers containing high-level PCBs, USEPA will also strive to reduce the number of transformers containing low-level PCBs.

Capacitors: Reductions will be measured using as a baseline the estimated 1,473,000 capacitors containing high-level PCBs in use in 1994.

The U.S. has already achieved substantial reductions in the amount of PCB wastes in existence within its borders. On a national basis, the U.S. disposed of (i.e., destroyed) 3.4 billion kilograms of PCB wastes during 1990-94. In addition, a number of Great Lakes electric utilities have already removed almost 90 percent of the PCBs that they once had in service. However, there are many facilities whose electrical equipment contains PCBs. Progress toward phase down at these facilities is unknown; this goal seeks the voluntary accelerated phase down of remaining high- and low-level PCBs at these facilities. Concurrently, as described elsewhere in this Strategy, USEPA will continue ongoing cleanup activities involving sediment contaminated with PCBs.

- U.S. progress in relation to this objective will be measured based upon data submitted to EPA regarding PCB removals from service and PCB wastes destroyed.

- The U.S. aim is to promote accelerated removal of PCBs on a voluntary basis, with an emphasis on high-level PCBs (those >500ppm) in electrical equipment, while ensuring compliance with present management requirements for PCBs that may be used indefinitely. In addressing this challenge, USEPA will give priority to sources in areas with the greatest potential to affect the Basin.

- USEPA will finalize the PCB Disposal Amendments, proposed 1994 (50 FR 62788-62877, December 6, 1994), which aim to reduce disposal costs through reduced administrative requirements for, and self implementation of, certain activities, including the decontamination (of equipment and materials) and disposal of PCBs.

- USEPA, in cooperation with Great Lakes states, may consult with potential users of PCBs such as utilities, government facilities, commercial buildings, and manufacturing facilities, including pulp and paper mills, steel mills, aluminum smelters, and transformer rebuilders, and request their accelerated removal of high-level PCBs (those >500 ppm) from use.

- USEPA will through the issuance of grants, promote activities involving the collection of information on the use, release, disposal or environmental levels of PCBs at any concentration.

- USEPA will finalize the Reclassification of PCB and PCB Contaminated Transformer Rule, proposed in the Federal Register of November 18, 1993, which aims to reduce the regulatory and economic burdens associated with reclassifying electrical equipment by amending reclassification requirements.

- USEPA will request that efforts promoting the reduction of PCBS be included in cooperative agreements with states.

In Canada:

- Over 40 percent of Ontario's high-level PCBs have been decommissioned. Continued efforts to decommission the remaining PCBs to meet the 90 percent target will be pursued in conjunction with owners and interested stakeholders, with a goal of "one-stop decommissioning and destruction" where possible.

- The target for PCB destruction applies to the 18,614 tonnes of high-level PCB wastes now in storage; 1300 tonnes have been destroyed as of December 1995. Demonstrations of new technologies for PCB destruction are being undertaken, in partnership with PCB owners across Ontario. Consolidation of small quantities for destruction, and decontamination to reduce storage/destruction volumes, is being considered.

- New federal regulations, effective February 1997, permit Canadian PCB wastes to be exported to the U.S. for destruction under strict environmental controls. These new controls will expedite the elimination of existing Canadian PCB wastes presently in storage.

- Significant progress is being made by the federal government on the decommissioning and destruction of federally-owned PCBs in the Great Lakes watershed. Over 50 percent of federally-owned PCBs have been decommissioned and destroyed. Work continues by federal government departments on the decommission-

ing and destruction of their remaining inventories.

U.S. Challenge: **Seek by 2006, a 50 percent reduction nationally in the deliberate use of mercury and a 50 percent reduction in the release of mercury from sources resulting from human activity. The release challenge will apply to the aggregate or releases to the air nationwide and of releases to the water within the Great Lakes Basin. This challenge is considered an interim reduction target and, in consultation with stakeholders, will be revised if warranted, following completion of the Mercury Study Report to Congress.**

Canadian Challenge: Seek by 2000, a 90 percent reduction in the release of mercury, or where warranted the use of mercury, from polluting sources resulting from human activity in the Great Lakes Basin. This target is considered as an interim reduction target and, in consultation with stakeholders in the Great Lakes Basin, will be revised if warranted, following completion of the 1997 COA review of mercury use, generation, and release from Ontario sources.

Through the Lake Superior Binational Program, Canada and the U.S., along with Ontario, Michigan, Minnesota and Wisconsin, have begun implementing a zero discharge demonstration project for mercury. A use-source tree for mercury was developed, and emission estimates generated. Strategies for reducing mercury emissions to "zero" are being developed in consultation with the Lake Superior Binational Forum. The Forum has provided recommendations to the governments consisting of a timeline for achieving zero discharge of mercury.

In the United States:

The primary remaining source of mercury in the Great Lakes ecosystem is atmospheric deposition of mercury emissions, often transported over long distances. The U.S. is using the most recent mercury emissions inventory, i.e., that which was conducted during the early 1990s, to measure reductions. This inventory suggests that the U.S. currently releases about 200 tons of mercury to the atmosphere annually. Standards for municipal waste combustors (which have been finalized for major sources and which will be re-promulgated for minor sources) and medical waste incinerators (proposed) will, when implemented by 2002, provide about a 70 ton reduction in mercury emissions, or 35 percent of current total U.S. emissions. Implementation of other Maximum Available Control Technology (MACT) standards offers the probability of further mercury emission reductions, though these cannot be estimated prior to their development. Direct controls on emissions will be complemented by the promotion of innovative technologies to reduce use and increase recycling, in order to reduce the amount of mercury entering the incinerator waste stream. Increased consumption of fossil fuels may, however, increase mercury emissions in the future. The U.S. has reduced mercury use 75 percent during the past 15 years, most of which has occurred since 1988. Given a 30-year trend away from mercury use in the U.S., it is expected that companies will continue to develop and market mercury-free alternatives as was done with alkaline batteries. Chlorine production, for example, is the largest national use of mercury. However, as new chlorine production plants are built, this industry is shifting from the mercury cell process to successor technologies which avoid the use of mercury. USEPA expects to release its Mercury Report to Congress in 1998.

- With the assistance of the Great Lakes states and others, USEPA will consult with potential users and releasers to seek their commitment to release and use reduction targets. Several Great Lakes states have mercury task forces which are working with stakeholders to undertake innovative mercury pollution prevention activities.

- USEPA and their Great Lakes state partners propose to include mercury release and use reduction as a goal to be included in the Performance Partnership Process, giving each state the opportunity to fund state-specific mercury projects, reflective of priorities in each state.

- USEPA will seek the assistance and cooperation of the Great Lakes states to target one or two specific sectors to undertake a major voluntary effort to reduce emissions and releases.

- USEPA will explore innovative approaches to reduce mercury, e.g., labelling requirements, reductions in use in non-essential items, or through product substitutions.

- USEPA will help strengthen and streamline federal/state coordination of mercury reduction activities by inviting participation in national mercury initiatives, and by helping to convene periodic Great Lakes meetings or symposia on mercury reduction activities, including state mercury reduction legislative initiatives private sector actions, and other innovative projects.

- USEPA has promulgated standards for municipal waste combustors and proposed standards for medical waste incinerators.

- USEPA is developing rules for hazardous waste incinerators and cement kilns which burn hazardous wastes. Implementation of these rules should reduce mercury emissions from these sectors.

- USEPA expects that this challenge can be met primarily through existing and proposed regulations of municipal waste combustors and medical waste incinerators, supplemented by voluntary initiatives. USEPA does not expect this challenge to require new regulatory initiatives. In addressing this challenge, USEPA will give priority to sources in areas with the greatest potential to affect the Basin.

- Implementation of Clean Air Act provisions which apply to other sectors which emit mercury may provide further reductions; it is not possible, however, to estimate resulting reductions, prior to development of these standards.

- The U.S. federal government (DOD, EPA) will study alternatives to the sale of surplus mercury from DOD stockpiles. The U.S. government holds 11.5 million pounds of mercury, which made it one of the world's principal suppliers before sales were suspended in 1994, pending review of environmental implications.

- USEPA will study alternatives to the incineration option for treatment of organomercuric hazardous wastes.

In Canada:

- It has been estimated that between 2,700 and 3,450 kg of mercury are released to the atmosphere in Ontario annually from anthropogenic sources, while up to 2,500 kg are released to the waters of the Great Lakes Basin annually. Through an analysis of mercury uses and sources, significant sources of mercury have been identified and prioritized. These sources will be encouraged to develop strategies to reduce their releases by 90 percent from a baseline year of 1988 through adoption of pollution prevention measures.

- In partnership with Pollution Probe, Canada and Ontario have identified potential industrial partners to participate in a unique three-way initiative to reduce or eliminate mercury in industrial or commercial applications. Coordination of this effort with U.S. partners is being considered, and the findings and approaches are being shared with the U.S. Virtual Elimination Pilot Project.

- Activities by companies to date have resulted in significant reductions in mercury content in batteries (60 - 90 percent), fluorescent lamps (44 percent) and switches, while further reductions are planned, such as 70 percent by fluorescent lamp manufacturers by 2000. One impact of past mercury usage is that landfill emissions may be a source of mercury releases in the Great Lakes Basin, but the quantities released and possible control mechanisms need further consideration.

- In applying the analytical framework in addressing mercury, relevant information from research projects undertaken by Environment Canada, Natural Resources Canada, and other agencies will be considered.

- Canada will work with the U.S. and Mexico in implementing the North American Regional Action Plan for Mercury and will incorporate mercury reduction targets in its partnerships with commercial and industrial sectors in Ontario.

U.S. Challenge: **Seek by 2006, a 75 percent reduction in total releases of dioxins and furans (2,3,7,8-TCDD toxicity equivalents) from sources resulting from human activity. This challenge will apply to the aggregate of releases to the air nationwide and of releases to the water within the Great Lakes Basin. Seek by 2006, reductions in releases, that are within, or have the potential to enter the Great Lakes Basin, of HCB and B(a)P from sources resulting from human activity.**

Canadian Challenge: **Seek by 2000, a 90 percent reduction in releases of dioxins, furans, HCB, and B(a)P, from sources resulting from human activity in the Great Lakes Basin, consistent with the 1994 COA. Actions will focus on the 2,3,7,8 substitute congeners of dioxins and furans in a manner consistent with the TSMP.**

Through the Lake Superior Binational Program, Canada and the U.S., along with Ontario, Michigan, Minnesota and Wisconsin have begun implementing a zero discharge demonstration project for dioxins, furans, HCB and

octachlorostyrene. Analysis of uses and sources for these pollutants were developed as were emission estimates. Strategies for reducing emissions to "zero" are being developed in consultation with the Lake Superior Binational Forum. The Forum has provided recommendations to the governments consisting of timelines for achieving zero discharge of critical pollutants.

In the United States:

USEPA will use its September 1994 draft dioxin Reassessment as an interim baseline for calculating dioxin emission reductions. Once USEPA has completed and released its final dioxin Reassessment, it will use the Reassessment's emissions inventory for 1987 as the challenge baseline. In the draft Reassessment, USEPA estimated that total releases to air from all sources is 9300 grams/annually, with 5100 grams from medical waste incinerators (55 percent) and 3000 grams from municipal waste incinerators (32 percent). Over a dozen sources make up the remaining 1200 grams.

- USEPA will complete its re-evaluation of the hazards presented by dioxin, as outlined in the draft Reassessment report released during 1994 for public comment. The Agency will also complete a policy assessment of dioxin, anticipated to be finalized with the release of the Final Reassessment.

- USEPA has promulgated standards for major source municipal waste combustors, and will finalize standards for medical waste incinerators and for minor source municipal waste combustors. These combustors and incinerators are regarded as significant sources of dioxins and furans; these substances are inadvertent by-products of combustion. Implementation of these standards is anticipated to reduce releases of dioxins from these sectors by more than 75 percent by 2006.

- Sizable reductions in HCB emissions are anticipated from municipal waste combustors and from cement kilns that bum hazardous wastes. Improvement for incineration of HCB-contaminated waste is also likely. Current information does not yet provide support for a more specific reduction challenge but as soon as data are available, a target will be included.

- Since current information does not yet provide support for a more specific reduction challenge for B(a)P, the U.S. will continue efforts to identify and quantify emissions of PAHs (and B(a)P in particular). Used oil refining may reduce the amount of B(a)P released to the environment.

In Canada:

Significant progress has been made in meeting this challenge under the COA and related activities such as the ARET program. This trend will be further promoted in partnerships focusing on priority sources of these pollutants. Implementation of the federal government's TSMP will facilitate additional cooperative actions in these and other sectors, consistent with the mandates of the different federal departments.

- Preliminary Ontario release estimates for B(a)P, HCB, dioxins and furans suggest more than 90 percent of the releases are direct atmospheric releases. A substantial natural emission of B(a)P may also be present from forest fires, complicating analysis of environmental trends in this contaminant. This analysis has identified and prioritized sources of these pollutants for subsequent development of reduction strategies.

- Through ARET, participating companies have reported reductions in emissions of HCB of 90 percent and of dioxins and furans of 98 - 99 percent. Through pollution prevention, participating companies reported 4,300 tonnes of hydrocarbon emissions and 16,000 tonnes of other waste emissions reduced. Participation and reporting of reductions undertaken voluntarily is growing in the Canadian portion of the Great Lakes Basin, signalling a trend away from controls and treatment toward eliminating use and generation.

- Both Canada and Ontario have promulgated stringent effluent requirements for the pulp and paper sector and pulp mills have invested heavily in the past five years to achieve compliance with the regulations. Canada and Ontario will confirm in 1997 that all mills using chlorine-based bleaching are in full compliance with the "non-measurable" effluent concentration requirements and have virtually eliminated dioxins and furans from their effluent.

- Dioxins, furans, and HCB have been assessed and declared toxic under the Canadian Environmental Protection Act. HCB and the 2,3,7,8 substituted congeners of dioxins and furans are proposed for manage-

ment on a national level under Track I (virtual elimination) of the TSMP. A federal/provincial task force is being established to evaluate control options for dioxins and furans and a multistakeholder group will also be established soon to develop options for HCB. Similarly, control options for polycyclic aromatic hydrocarbons (PAHs) including B(a)P are being developed for the major source sectors such as iron and steel and wood preservation.

- Registration of HCB as a fungicidal seed treatment has been discontinued in Canada since 1976, and uses of HCB as a pesticide am considered illegal under the Pest Control Products Act.

- In lifting its ban on new municipal waste incinerators, Ontario has adopted emissions limits at least as stringent as the MACT standards adopted in the U.S.

U.S. and Canadian Challenge: **Promote pollution prevention and the sound management of Level II substances, to reduce levels in the environment of those substances nominated jointly by both countries, and to conform with the laws and policies of each country, including pollution prevention, with respect to those substances nominated by only one country. Increase knowledge on sources and environmental levels of these substances.**

In Canada, the federal government will manage Level II substances consistent with federal legislation, the TSMP and COA.

- EC and USEPA will investigate levels of these contaminants in the Great Lakes where appropriate and, where possible, gather additional information on resulting impacts to the ecosystem.

- EC and USEPA will also continue to inventory emissions of selected substances and model their loading to the Great Lakes.

- EC will develop information on the occurrence, fate and effects of organometal compounds (including tributyl tin).

- EC will also upgrade and improve public access to an existing import/export information database concerning imports/exports of hazardous waste.

- Implementation of the Clean Air Act in the U.S. will substantially reduce emissions of PAHs.

U.S. and Canadian Challenge: **Assess atmospheric inputs of Strategy substances to the Great Lakes. The aim of this effort is to evaluate and report jointly on the contribution and significance of long-range transport of Strategy substances from world-wide sources. If ongoing long-range sources are confirmed, work within international frameworks to reduce releases of such substances.**

- EC and USEPA will, as a priority, coordinate efforts to identify sources of atmospheric pollutants in order to better define and coordinate emission control programs.

- EC and USEPA will maintain atmospheric deposition monitoring stations to detect deposition and transport of Strategy substances.

- EC and USEPA will continue research on the atmospheric science of toxic pollutants to refine and improve existing source, receptor and deposition models, fundamental to impact assessment. They will also improve integration of existing air toxic monitoring networks and data management systems to track deposition of contaminants within the Great Lakes.

- EC and USEPA will conduct an assessment of the long-range transport of persistent toxic substances from world-wide sources.

- By 1999, Canada will complete inventories of 10 selected air pollution sources to support assessment of the environmental impacts of air toxics. In addition, by 2001, EC will demonstrate alternative processes to lessen emissions from 5 predominant sources.

U.S. and Canadian Challenge: **Complete or be well advanced in remediation of priority sites with contaminated bottom sediments in the Great Lakes Basin by 2006.**

In the United States:

- The Assessment and Remediation of Contaminated Sediments (ARCS) Program, a five-year study/demonstration project relating to the assessment and treatment of toxic pollutants from bottom sediments, has been undertaken.

- Continue ongoing contaminated sediment cleanup activities in the following AOCs as well as other priority areas: Ashtabula Harbor, Ohio; Erie Canal at Lockport, New York, Fox River, Wisconsin; Grand Calumet River, Indiana; Kalamazoo River, Michigan; Manistique River, Michigan; Niagara River, New York; Ottawa River, Ohio; River Raisin, Michigan; Rouge River, Michigan; Sheboygan River, Wisconsin; and St. Lawrence River, New York.

- Continue to assess and develop remediation plans for AOCs, and other contaminated sites.

In Canada:

- Document the evaluation and assessment of 250 innovative technologies developed under the auspices of the Great Lakes 2000 Cleanup Fund for the safe handling and treatment of contaminated sediments.

- Promote, on a pilot basis, the application and use of a computerized, searchable and user-friendly Sediment Technology Directory (SEDTEC) of 250 technologies for the handling and treatment of sediments, soils, and sludges.

- Describe effects and appropriate remediation measures, working to ensure cleanup of priority contaminated sediments such as in Thunder Bay, Sault Ste. Marie, Hamilton Harbour, and Port Hope.

- Develop long-term approaches to remediate intermediate contamination such as in Jackfish Bay, Metro Toronto, and Cornwall.

EC and USEPA will encourage and support voluntary programs by industries to reduce the generation, use, or release of targeted contaminants.

- Continue or establish partnerships with key Great Lakes industries (e.g., automotive, printing) to foster "cleaner, cheaper, smarter" ways of preventing or reducing pollution. Examples include Project XL and ISO 14000.

- Pollution prevention programs will be promoted and encouraged at targeted industrial facilities discharging to the Great Lakes using a variety of ongoing efforts, including within Canada, the Pollution Prevention Pledge Program for Ontario and ARET. Within the U.S., the Common Sam Initiative and other programs will support this action.

GLOSSARY

The following definitions are for purposes of this Strategy only.

Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA): *Canada and Ontario have entered into an agreement in 1994 to renew and strengthen federal-provincial planning, cooperation and coordination in implementing actions to restore and protect the ecosystem, to prevent and control pollution into the ecosystem, and to conserve species, populations and habitats in the Great Lakes Basin Ecosystem. Implementation of this agreement contributes substantially to meeting Canada's obligations under the 1987 GLWQA.*

Great Lakes Basin: The Great Lakes Basin means all of the streams, rivers, lakes and other bodies of water that are within the drainage basin of the St. Lawrence River at or upstream from the point at which this river becomes the international boundary between Canada and the U.S., as defined by the 1987 GLWQA.

Great Lakes Water Quality Agreement of 1978, as amended by Protocol signed November 18, 1987: An agreement between the U.S. and Canada to restore and maintain the chemical, physical and biological integrity of the water of the Great Lakes Basin Ecosystem.

Life cycle: Consecutive and interlinked stages of a product system, from raw material acquisition or generation of natural resources to the final disposal.

Persistent Toxic Substances: Those substances which have a long half-life in the environment. Substances identified in the Strategy have been nominated from multiple selection processes. It is recognized that there are different definitions of persistence which are used in the various U.S. and Canadian domestic programs.

Release: A release is any introduction of a toxic chemical to the environment as a result of human activity. This includes emissions to the air; discharges from point and non-point sources to bodies of water; introductions to land, including spills or leaks from waste piles, contained disposal into underground injection wells, or other sources.

Resulting from human activity: Any and all sources resulting from human activity, including but not limited to releases from industrial or energy-producing processes, landfilling or other actions.

Toxic Substance: "Any substance which can cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological or reproductive malfunctions or physical deformities any organism or its offspring, or which can become poisonous after concentration in the food chain or in combination with other substances." Source: 1987 GLWQA

Memorandum of Understanding between the Environmental Protection Agency of the United States of America and the Department of the Environment of Canada concerning Cooperation in Research Development and Demonstrations in Science and Technology Related to Environmental Protection, Washington, DC, 1997

Done at Washington, DC 7 April 1997

Primary source citation: Copy of text provided by the U.S. Department of State

Article I (Objective)

1. The Environmental Protection Agency of the United States of America (EPA) and the Department of the Environment of Canada (DOE), hereinafter referred to as the "Parties", pursuant to the terms of this Memorandum of Understanding (the "Memorandum"), intend to undertake a program of cooperation and information-sharing in research, development and demonstrations related to pollution prevention, monitoring and control.

2. The purpose of such cooperation is to improve methods, technologies and systems for pollution prevention, monitoring, assessment and control by pursuing, without duplication of effort, joint and parallel scientific and technological research, development and demonstration projects.

3. The Parties do not intend this Memorandum to create binding obligations under international law.

Article II (Scope)

The Parties intend to continue, as described herein, the program of cooperation for the protection of the environment provided for in the Memorandum of Understanding between EPA and DOE Concerning Research and Development Cooperation in Science and Technology, dated October 17, 1985 (the "1985 Memorandum"), in accordance with this Memorandum.

In particular, the Parties intend to:

1. Develop a program of cooperation in research, development and demonstrations relating to technologies, systems and methods for pollution prevention, monitoring, assessment and control through joint and parallel projects in the areas set forth in Article III; and

2. Increase ongoing cooperation among scientific and technical experts by providing for: cooperative work on projects; utilization by one Party of the facilities of the other Party as agreed; the sharing of information, technology and-techniques; workshops and conferences; temporary assignments of personnel from one Party to the other; or such other mechanisms for cooperation as may be agreed upon.

Article III (Project Activities)

The Parties may engage in cooperation related to the following project areas:

1. Field tests and demonstrations of pollution prevention, control and monitoring equipment;

2. Development of pollution prevention, control and monitoring equipment for destruction, treatment, control, and/or disposal of hazardous and other waste;

3. Development of programs in areas of increasing priority such as: global change and related emissions modeling and mitigation; pollution prevention and related clean technology programs; municipal solid waste disposal methodologies, including the disposal of sludges and other residues; biotechnology and bioengineering control; and contaminated sediment remediation; and

4. Such other areas of mutual interest relating to environmental protection, upon which the Parties may mutually concur.

Each Party may use the services of and enter into arrangements with appropriate institutions, such as universities and governmental and nongovernmental organizations, to develop and conduct activities under this Memorandum, consistent with applicable law.

Article IV (Funding)

1. Unless otherwise specified, each Party intends to bear the expense of its participation in activities under this Memorandum. However, a number of activities under this Memorandum may involve a transfer of funds by or through the Parties through appropriate funding mechanisms to the extent consistent with applicable law.

2. The ability of each Party to carry out activities under this Memorandum is subject to the availability of appropriated funds, personnel and other resources.

Article V (Management)

1. Each Party hereby designates a Program Coordinator to manage activities under this Memorandum. The EPA Program Coordinator is the Assistant Administrator for Research and Development. The DOE Program Coordinator is the Assistant Deputy Minister for Environmental Protection Service. The Program Coordinators intend to conduct annual evaluations of activities under this Memorandum and annual reviews of other matters concerning the Memorandum, such as future policy and programmatic direction.

2. An implementing arrangement for each project activity specified in Article III ("Implementing Arrangement") should be concluded in writing by the Parties. Each Implementing Arrangement should specify: the scope of the activity; expected project period; responsibilities of the Parties, including those relating to funding; anticipated results; reporting procedures, if appropriate; and any other relevant matter.

3. Each Program Coordinator intends to designate a Project Officer for the management of each Implementing Arrangement.

4. Each Party may designate a replacement Program Coordinator or replacement Project Officers at any time upon written notice to the other Party.

5. The Parties intend to resolve any dispute arising from the implementation of this Memorandum through

negotiations.

Article VI (Intellectual Property and Business Information)

1. This Memorandum is subject to the exchange of notes between the U.S. Embassy in Ottawa and the Canadian Department of Foreign Affairs and International Trade dated February 4, 1997, constituting an Agreement on the Allocation of Intellectual Property Rights, Interests and Royalties for Intellectual Property Created or Furnished under Certain Scientific and Technological Cooperative Research Activities (hereinafter referred to as "1997 IPR Agreement").

2. Any intellectual property and confidential business information created subsequent to October 17, 1990, and not yet under a regime of protection, is to the extent practicable subject to the 1997 IPR Agreement.

Article VII (Relationship to Other Instruments)

1. Uncompleted activities commenced under the 1985 Memorandum are to continue under this Memorandum.

2. Uncompleted activities commenced following the termination of the 1985 Memorandum are to likewise continue under the provisions of this Memorandum.

Article VIII (Applicability of Laws of the Parties)

All activities undertaken pursuant to this Memorandum are subject to the applicable law of the United States of America and of Canada.

Article IX (Signature, Amendment and Termination)

1. This Memorandum comes into effect upon signature. Either Party intending to terminate this Memorandum should provide 180 days notice in writing to the other Party. Unless otherwise determined in writing, the termination of the Memorandum does not affect the validity or duration of activities undertaken pursuant to the Memorandum that have been initiated prior to, but not completed at the time of, such termination.

2. The Memorandum may be amended at any time by the written concurrence of the Parties.

DONE at Washington, D.C., in duplicate, this day of April 7, 1997, in the English and French languages, each text being equally valid.

FOR THE ENVIRONMENTAL PROTECTION AGENCY OF UNITED STATES OF AMERICA:

[Signature]
Carol M. Browner
Administrator

FOR THE DEPARTMENT OF THE ENVIRONMENT OF CANADA

[Signature]
Sergio Marchi
Minister

BILATERAL

CHINA

FISHERIES

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the People's Republic of China of 23 July 1985, as amended and extended, concerning fisheries off the Coasts of the United States, with annex, Beijing, 1996

Done at Beijing 6 June and 1 July 1996

Entered into force 13 February 1998

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 219

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to request an extension of the Agreement between the Government of the United States of America and the Government of the People's Republic of China concerning Fisheries off the Coasts of the United States, with annex, signed at Washington July 23, 1985, as amended and extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on July 1, 1996, be extended for an additional two year period, until July 1, 1998. If this proposal is acceptable to the Government of the People's Republic of China, the Embassy proposes that this note and the Government of the People's Republic of China's favorable note in reply shall constitute an agreement between the two Governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States would like to take this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

[Seal]

Embassy of the United States of America,

Beijing, June 6, 1996.

U.S. Department of State
Office of Language Services
Translating Division

LS No. 038783al
VCHANG
Chinese

Ministry of Foreign Affairs of the
People's Republic of China

(96) Note. No. 548

The Embassy of the United States of America in China:

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America in China and has the honor of receiving its note dated June 6, 1996, the contents of which are as follows:

[The Chinese translation of the U.S. Embassy note dated June 6, 1996, agrees in all substantive respects with the original English, with the following exception:

In paragraph 1, line 3 of the English text, "...and has the honor to REQUEST AN EXTENSION..." is translated as "...and has the honor to REFER to..."]

The Ministry of Foreign Affairs of the People's Republic of China, on behalf of the Government of the People's Republic of China, confirms its agreement to the content of the above note, and renews assurances of its highest consideration.

[Seal of the Ministry of Foreign Affairs of the People's Republic of China]

Beijing, July 1, 1996

CERTIFICATE OF TRANSLATION

I hereby certify that the translation bearing LS No.7H0319982783 was prepared by the Office of Services of The Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated: 3/24/98

[Signature]
Chief, Translating Division

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the People's Republic of China of 23 July 1985, as amended and extended, concerning Fisheries off the Coasts of the United States, with Annex, Beijing, 1998

Done at Beijing 11 August and 17 September 1998

Entered into force (not in force)

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 496

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to refer to the Agreement between the government of the United States of America and the government of the People's Republic of China Concerning Fisheries off the Coasts of the United States, with Annex, signed at Washington July 23, 1985, as amended and extended (The Agreement).

The Embassy has the honor to propose that The Agreement which expired on July 1, 1998, be extended for an additional three-year period, to July 1, 2001.

If this proposal is acceptable to the government of the People's Republic of China, the Embassy further proposes that this note and the Ministry of Foreign Affairs' note in reply shall constitute and agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

[Seal]

Embassy of the United States of America,

Beijing, August 11, 1998.

Translation

No. 1115

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America and has the honor to acknowledge the receipt of the note from the Embassy dated August 11th, 1998, which contains the following:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to refer to the Agreement between the government of the United States of America and the government of the People's Republic of China Concerning Fisheries off the Coasts of the United States, with Annex, signed at Washington July 23, 1985, as amended and extended (The Agreement).

The Embassy has the honor to propose that The Agreement which expired on July 1, 1998, be extended for an additional three-year period, to July 1, 2001.

If this proposal is acceptable to the government of the People's Republic of China, the Embassy further proposes that this note and the Ministry of Foreign Affairs' note in reply shall constitute an agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties."

The Ministry of Foreign Affairs, on behalf of the government of the People's Republic of China, confirms that it agrees to what has contained in the above note.

The Ministry of Foreign Affairs of the People's Republic of China avail itself of this opportunity to renew to the Embassy of the United States the assurances of its highest consideration.

Ministry of Foreign Affairs of the People's Republic of China

Beijing, September 17, 1998.

Agreement Extending the Memorandum of Understanding of 3 December 1993, as extended, on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of 20 December 1991, Beijing, 1996

Done at Beijing 22 October and 27 December 1996

Entered into force 27 December 1996

Primary source citation: Copy of text provided by U.S. Department of State.

No. 464

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to refer to the Memorandum of Understanding between the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991, done at Washington on December 3, 1993 and extended.

The Embassy has the honor to propose, on behalf of the Government of the United States of America, that the Memorandum of Understanding, currently scheduled to expire on December 31, 1996, be extended until December 31, 1998. If this proposal is acceptable to the Government of the People's Republic of China, the Embassy has the further honor to propose that this note and your note in favorable reply shall constitute an agreement between our two governments, which shall enter into force on the date of your note in reply.

The Embassy takes this opportunity to renew to the Ministry of Foreign Affairs of the People's Republic of China the assurances of its highest consideration and looks forward to an early response to the above proposal.

[Seal]

Embassy of the United States of America,

Beijing, October 22, 1996

(96) Bu Tiao ZI NO. 1084

The Ministry of Foreign Affairs of the People's Republic of China Presents its compliments to the Embassy of the United States of America in China and has the honour to refer to the Embassy's note dated October 22, 1996 in respect to extension "the Memorandum of Understanding between the Government of the People's Republic of China and the Government of the United States of America on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991, done at Washington on December 3, 1993 and extended", which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People' s Republic of China and has the honour to refer to the Memorandum of Understanding between the Government of the People's Republic of China and the Government of the United States of America on Effective Cooperation and Implementation of the United Nations General Assembly Resolution 46/215 of December 20, 1991, done at Washington on December 3, 1993 and extended.

The Embassy has the honour to propose on behalf of the Government of the United States of America, that the Memorandum of Understanding, currently scheduled to expire on December 31, 1996, be extended until December 31, 1998. If this proposal is acceptable to the Government of the People's Republic of China, the embassy has further honour to propose that this note and your note in favorable reply shall constitute an agreement between our two governments, which shall enter into force on the date of your note in reply."

The Ministry of Foreign Affairs of the People's Republic of China confirms on behalf of the Government of the People's Republic of China that the above said proposal is acceptable, to the Chinese Government and this note and Embassy's note shall constitute an agreement between two governments and come into force on date of issuance of this note.

The Ministry of Foreign Affairs avails this opportunity to renew to the Embassy of the United States of America in China the assurances of its highest consideration.

BILATERAL

COSTA RICA

POLLUTION OF THE ENVIRONMENT

Agreement on the Transboundary Movement of Hazardous Waste from Costa Rica to the United States, San Jose, 1997

Done at San Jose 30 September and 17 November 1997

Entered into force 17 November 1997

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA
San Jose, September 30, 1997

Note No. 130

Excellency:

I have the honor to refer to the letter of April 26, 1997, from Costa Rica Minister of Health Weinstok to United States Environmental Protection Agency Administrator Browner proposing that the United States and Costa Rica enter into an Agreement on the Transboundary Movement of Hazardous Waste to permit the export of hazardous waste to the United States which would permit computer microprocessor assembly plants in Costa Rica owned by INTEL Corporation to send certain industrial chemicals to the United States for reprocessing. In response, the Government of the United States proposes, instead of a single item agreement, that the United States and Costa Rica enter into a general agreement on the export of hazardous waste to the United States.

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel, Switzerland, on March 22, 1998 ("Basel Convention"), to which the Government of Costa Rica is a Party, provides a framework for transboundary movements of hazardous wastes. Although the Government of the United States of America is not at present a Party to the Basel Convention, Article 11, Paragraph 1 of the Basel Convention provides that a Party may enter into an Agreement with a non-Party for the transboundary movement of hazardous waste, provided that such Agreement does not derogate from the environmentally sound management of hazardous wastes as required by the Basel Convention, and that such Agreement stipulates provisions not less environmentally sound than those provided by the Basel Convention. Consistent with Article 11, Paragraph 1 of the Basel Convention and in response to Costa Rica's request of April 26, 1997, I have the honor to propose the following Agreement between the Government of the United States and the Government of Costa Rica (hereinafter "the Parties"):

1. This Agreement shall govern the export hazardous wastes from Costa Rica to the United States for management. The term "hazardous wastes" means those wastes that are regulated as hazardous under either U.S. or Costa Rican laws and regulations. The term "management" means the collection, transport, treatment, disposal, and recycling of hazardous wastes in accordance with applicable U.S. laws and regulations.

2. With regard to the export of any hazardous waste from Costa Rica to the United States pursuant to this Agreement, Costa Rica certifies that it shall comply with the Basel Convention.

3. The competent authority of Costa Rica, which for the purposes of this Agreement shall be the

Secretaria Técnica Nacional Ambiental (SETENA), shall notify in writing the competent authority of the United States, which for the purposes of this Agreement shall be the U.S. Environmental Protection Agency (EPA), of any proposed export of hazardous waste to be carried out pursuant to this Agreement. In accordance with Article 6, Paragraph 1 of the Basel Convention, such notification shall be conveyed in English. If any information in the notification changes, a new notification shall be provided.

4. With respect to wastes regulated as hazardous under U.S. laws and regulations, EPA shall, in accordance with applicable U.S. laws and regulations, respond to SETENA in writing, consenting to a shipment with or without conditions, objecting to a shipment, or requesting additional information. EPA shall use its best efforts to respond within 30 days of receipt of a notification. However, Costa Rica shall not allow any export to commence until receipt of written consent from EPA.

5. The consent of EPA, including conditional consent, may be withdrawn or modified for good cause. In such case, EPA shall notify SETENA as soon as possible.

6. With respect to wastes regulated as hazardous under Costa Rican laws and regulations but not under U.S. laws and regulations, upon receipt of a notification pursuant to the Basel Convention, the United States shall not object to the import of such materials and this Agreement shall serve as the U.S. written non-objection for imports of such materials. This provision shall not apply to wastes which are contaminated by other materials to the extent that they are regulated as hazardous wastes under U.S. law or to materials that are prohibited for import under U.S. law. Where information provided in a notice under paragraph 3 above is based on fraudulent or inaccurate information, paragraph 10 may apply. Further, the United States reserves the right to rescind non-objection of these imports.

7. Imported hazardous waste, once subject to the jurisdiction of the United States, shall be subject to all applicable U.S. laws and regulations.

8. Costa Rica reserves the right to limit the types and categories of wastes that it proposes to export to the United States under the terms of this Agreement.

9. This Agreement is subject to the national laws and regulations of each Party, including jurisdictional statutes respecting liability *in rem*.

10. The Parties shall ensure that any illegal traffic in hazardous wastes is addressed consistent with Article 9 Paragraphs 2 to 4 of the Basel Convention.

11. This Agreement shall expire five years from the date of its entry into force, unless extended in writing by both Parties. Either Party may terminate this Agreement upon written notification, such termination to take effect six months following the date of notification.

If this proposal is acceptable to the Government of Costa Rica, I have the honor to propose that this note and your Excellency's favorable note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of our Excellency's note.

Accept, Excellency, the renewed assurances of my highest consideration.

[Signature]
Peter Jon de Vos
Ambassador

His Excellency
Doctor Fernando Naranjo Villalobos
Minister of Foreign Affairs of the Republic of Costa Rica
San Jose

U.S. Department of State
Office of Language Services
Translating Division

LS No. 018413
HNC/JPM
Spanish

The Minister of Foreign Relations and Worship

November 17, 1997

No. DM-560-97

Dear Mr. Baltimore:

I have the honor to refer to the note of September 30, 1997, sent to us by the Embassy of the United States of America, which reads as follows:

[For text of body of the Costa Rican note see the Embassy's note which it quotes in its entirety.]

The Government of Costa Rica informs the Embassy that it concurs in the Agreement proposed in paragraphs 1 through 11. This note and Your Excellency's note shall constitute an Agreement, which shall enter into force on this date.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration and esteem.

[Signature]
Fernando E. Naranjo V.
[Ministry stamp]

Hon. Richard Baltimore, III
Chargé d'Affaires
Embassy of the United States of America
San José, Costa Rica

BILATERAL

ESTONIA

FISHERIES

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the Republic of Estonia of 1 June 1992, as extended, concerning Fisheries Off the Coast of the United States, Tallinn, 1996

Done at Tallinn 3 and 28 June 1996

Entered into force 8 July 1997

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE

UNITED STATES OF AMERICA

June 3, 1996

No. 35

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Estonia and has the honor to refer to the agreement between the Government of the United States of America and the Government of the Republic of Estonia concerning fisheries off the coasts of the United States, with annex, signed at Washington June 1, 1992, as extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on June 30, 1996, be extended for an additional two year period, until June 30, 1998. If this proposal is acceptable to the Government of the Republic of Estonia, the Embassy proposes that this note and the Government of the Republic of Estonia's favorable note in reply shall constitute an agreement between the two governments which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Estonia the assurances of its highest consideration.

Ministry of Foreign Affairs,

Republic of Estonia,

Tallinn, Estonia.

Ministry of Foreign Affairs
Republic of Estonia

No. 10/10698

NOTE VERBALE

The Ministry of Foreign Affairs of the Republic of Estonia present their compliments to the Embassy of the United States of America and have the honour to acknowledge the receipt of the Embassy's Note No. 35 of June 3, 1996, regarding the proposal to extend the Agreement between the Government of the United States of America and the Government of the Republic of Estonia concerning fisheries off the coasts of the United States, with annex, signed at Washington June 1, 1992 for an additional two year period until June 30, 1998.

The Ministry of Foreign Affairs can hereby confirm that the proposal of the Government of the United States of America is acceptable for the Government of the Republic of Estonia and the Estonian side has completed all the necessary internal requirements for the entry into force of the Agreement

The Ministry have the honour to assure that the Embassy' Note No. 35 and the reply Note of the Ministry constitute an Agreement between the two Governments.

The Ministry of Foreign Affairs of the Republic of Estonia avail themselves of this opportunity to renew to the Embassy of the United States of America the assurances of their highest consideration.

Tallinn, June 28, 1996

[Seal]

To
the Embassy
of the United States of America
TALLINN

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the Republic of Estonia of 1 June 1992, as extended, concerning Fisheries Off the Coast of the United States, Tallinn, 1998

Done at Tallinn 10 March and 11 June 1998

Entered into force 21 June 1999

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE

UNITED STATES OF AMERICA

March 10, 1998

No. 026

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Estonia and has the honor to refer to the agreement between the Government of the United States of America and the Government of the Republic of Estonia concerning Fisheries Off the Coasts of the United States, With Annex, signed at Washington June 1, 1992, as extended (The Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that The Agreement, which is currently scheduled to expire on June 30, 1998, be extended for an additional two-year period, until June 30, 2000. If this proposal is acceptable to the Government of the Republic of Estonia, the Embassy proposes that this note and the Government of Estonia's favorable note in reply shall constitute an agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Estonia assurances of its highest consideration.

[Seal]

Ministry of Foreign Affairs,

Republic of Estonia,

Tallinn

Ministry of Foreign Affairs
Republic of Estonia

No. 3-3/2327

NOTE VERBALE

The Ministry of Foreign Affairs of the Republic of Estonia present their compliments to the Embassy of the United States of America and have the honour to acknowledge the receipt of the Embassy's Note No. 026 of March 10, 1998, regarding the proposal to extend the Agreement between the Government of the United States of America and the Government of the Republic of Estonia concerning fisheries off the coasts of the United States, With Annex, signed at Washington June 1, 1992 for an additional two-year period until June 30, 2000.

The Ministry of Foreign Affairs can hereby confirm that the proposal of the Government of the United States of America is acceptable for the Government of the Republic of Estonia and the Estonian side has completed all the necessary internal requirements for the entry into force of the Agreement.

The Ministry have the honour to assure that the Embassy' Note No. 026 and the reply Note of the Ministry constitute an Agreement between the two Governments.

The Ministry of Foreign Affairs of the Republic of Estonia avail themselves of this opportunity to renew to the Embassy of the United States of America the assurances of their highest consideration.

Tallinn, June 11, 1998

[Seal]

To
the Embassy
of the United States of America
TALLINN

BILATERAL

ITALY

FISHERIES

Agreement concerning Large-scale Driftnet Fishing on the High Seas, Washington, DC, 1996

Done at Washington, DC 22 and 26 July 1996

Entered into force 26 July 1996

Primary source citation: Copy of text provided by the U.S. Department of Commerce

NOTE VERBALE

1) The Embassy of Italy presents its compliments to the Department of State of the United States of America and has the honor to refer to Note Verbale number 307 of April 27, 1996 of the American Embassy in Rome concerning high seas driftnet fishing and to the consultations between representatives of the two Governments that have taken place on this subject since then.

2) As a matter of principle, the Government of Italy would also call to the attention of the U.S. Department of State the Note Verbale presented to the Department by the Delegation of the European Commission of June 10, 1996, in which the Commission expressed its deep concern about possible trade sanctions in light of U.S. obligations relating to the World Trade Organization.

3) The Embassy would like to make clear that the Government of Italy is strictly enforcing its existing laws on driftnet fishing, which prohibit the use of driftnets longer that 2.5 kilometers. Italian enforcement authorities have been instructed to continue and enhance this effort, increasing substantially the inspection of vessels, both at sea and in port.

4) As already indicated during the consultations referred to in paragraph 1, the measures that the Government of Italy will undetake relating to driftnet fishing are outlined in the enclosed copy of the Statement made public on July 19, 1996 by the Italian Minister of Agriculture.

The Italian Government will transmit within the next days to the U.S. Embassy in Rome certain other materials that are relevant to the efforts of the Government of Italy relating to driftnet fishing.

These materials will include: 1) the proposal of the Government of Italy to the European Union for a comprehensive conversion program for Italian driftnet vessels, 2) a list of Italian driftnet vessels to be covered by the conversion program, 3) the new draft law that would provide for enhanced penalties for driftnet fishing violations that will be soon approved by the Government of Italy.

5) As described in the enclosed statement, the Government of Italy has proposed for approval of the European Union a comprehensive program to convert Italian driftnet vessels. In accordance with the proposal, beginning with the 1997 fishing season, holders ofl driftnet fishing licenses will receive benefits under the conversion plan by either choosing to abandon fishing activities entirely or by converting to another method of fishing compatible with environmental requirements. It is the Italian Government's hope that the program will be approved in the coming months. Owners and operators of driftnet vessels that violate the terms of the program would lose all benefits they would otherwise receive under the program and would be subject to applicable penal and administrative penalties.

Concerning the draft regulation currently under examination by European institutions, it is the Italian authorities' hope that on the occasion of the discussions within the (EU) Council, a decision could be made to begin the suspension of all driftnet fishing activities with the start of the 1997 fishing season.

6) Further to these measures, it is the intention of the Governement of Italy to provide to the Government of the United States a copy of the annual report that the Italian authorities are required to provide to the European Union pursuant to Regulation n.2847/93 CEE, specific data on driftnet fishing violations detected, and the resulting penalties that have been imposed, by the Government of Italy. The Government of Italy also intends to report to the United Nations Secretary General, on a regular basis, on measures that the Government of Italy is taking to ensure observance of the United Nations moratorium on the use of large scale driftnets, as called for in United Nations General Assembly Resolution n.50/25 of 5/12/95.

7) It is the understanding of the Government of Italy that its commitment to undetake the measures relating to driftnet fishing that are described in this Note and in the enclosed statement, including the existing legislation, the measures that have been announced, the intensification of enforcement, the data that has been and will be provided, satisfy the requirements set forth in the U.S. High Seas Driftnet Fisheries Enforcement Act necessary to avoid the imposition of trade sanctions. The Embassy of Italy respectfully requests the Department of State to confirm this understanding.

8) The Embassy of Italy avails itself of the opportunity to renew to the Department of State the assurance of its highest esteem.

[Seal]

Washington, D.C.
22 July 1996.

U.S. Department of State
Washington, D.C.

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES

Translating Division

LS No. 150445
BL
Italian

THE MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF ITALY

July 25, 1996
071/12898

NOTE VERBALE

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to Note Verbale No. 5554 of July 22, 1996, by the Embassy of Italy in Washington, with which the text of the Statement by the Minister of Agriculture, Food, and Forestry Resources, Sen. Michele Pinto, on the initiatives of the Italian Government concerning the discipline and control of driftnet fishing activities was transmitted to the Department of State.

As announced in that Note Verbale, the Minister of Foreign Affairs has the honor to send the following documents as enclosures:

EMBASSY OF THE
UNITED STATES OF AMERICA
Palazzo Margherita
Via Vittorio Veneto, 119'/a
00187 ROME

a) the plan for the reconversion and rationalization of driftnet fishing as submitted for examination and approval to the Services of the EU Commission. It was drafted on the basis of recent contacts with these same Services, which have already expressed their favorable view of it. The document has four annexes, one of which is the list of vessels using driftnets and involved in the reconversion plan, and which is to be treated as confidential at the present stage.

b) a list of vessels carrying out driftnet fishing activities (annex to the reconversion plan).

c) draft law amending Law No. 963 of July 14, 1965, on the discipline of sanctions applicable in the marine fisheries sector as submitted for approval to the Council of Ministers at the session of July 26, 1996. The Minister of Foreign Affairs avails himself of the occasion to communicate that the draft law on the accession of the Italian Republic to the International Convention for the Conservation of Atlantic Tuna (ICCAT) will also be submitted for approval to the Council of Ministers at the session of next July 26, and that the following will also be transmitted:

1) a copy of the ministerial decree of July 23, 1996, on the "ban on logistic operations in ports of Sardinia by so-called driftnet (spadare) vessels", signed by the Minister of Agriculture, Food, and Forestry Resources on July 23, and transmitted today for registration to the State Audit Court. The decree will enter into force without delay in the next few days, as soon as it is published in the Official Gazette of the Republic;

2) The tables on controls and administrative sanctions for driftnet fishing imposed in analogous periods of reference for 1995 and 1996;

The Minister of Foreign Affairs avails himself of the occasion to renew the assurances of his highest consideration.

Rome, July 25, 1996

Initial, round stamp of the Ministry of Foreign Affairs

NOTE VERBALE

The Department of State acknowledges receipt of Note Verbale No. 5554, dated July 22, 1996, from the Embassy of Italy and Note Verbale No. 071-12898, dated July 25, 1996, from the Italian Ministry of Foreign Affairs to the U.S. Embassy in Rome, and refers to Note No. 307, dated April 27, 1996, from the Embassy of the United States of America in Rome, all of which concern the subject of large-scale driftnet fishing on the high seas.

As set forth in Note No. 307, Italy was identified pursuant to the U.S. High Seas Driftnet Fisheries Enforcement Act of 1992 on March 28, 1996 ("the Act"). As a consequence of such identification, consultations took place between the Government of Italy and the Government of the United States of America and agreement was reached between representatives of the two Governments whereby the Government of Italy has committed itself to undertake certain measures, described in Note Verbale No. 5554 and in the Statement of the Italian Minister of Agriculture enclosed with that Note, to effect the immediate termination of large-scale driftnet fishing by Italian nationals and vessels.

The Department of State is pleased to confirm to the Embassy of Italy that it is the understanding of the Department of State that the agreement of the Government of Italy to take the measures relating to driftnet fishing that are described in Note Verbale No. 5554 and in the Statement enclosed with that Note satisfies the requirements set forth in the Act necessary to avoid a prohibition on the importation of certain products of Italy into the United States.

The Department of State takes this opportunity to emphasize to the Embassy of Italy the need for effective implementation of the measures referred to above relating to driftnet fishing. In this regard, the Government of the United States of America looks forward to a continuing dialogue with the Government of Italy on this matter.

Department of State,

Washington, July 26, 1996

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES

Translating Division

LS No. 150229
BL/Sim
Italian

STATEMENT

Regarding the issue of driftnets, and with reference to the recommendations by the United States Government, the Minister of Agricultural, Food, and Forestry Resources, the Honorable Michele Pinto, declares:

1. The European Commission, on the basis of its own inspections, among other things, has called the Italian Government's attention to the need to ensure full respect for the legal provisions that have been in force since 1992, banning the use of driftnets longer than 2.5 km, and to the obligation of the EU member states to provide for adequate and effective sanctions for any violations encountered.

2. This is an issue which should first of all be squarely placed within the larger context of a global fishing policy.

Italy is fully aware of the need, also with regard to the Mediterranean, for a policy of conservation and rational management of fishing resources, while safeguarding the marine environment, as well as of the particular role of our country, based on its geographic location and the importance of its fishing activity, to ensure that international cooperation is intensified, and that compliance with the measures decided at the national, Community, and international level by all parties concerned is guaranteed. A sound fishing resource management policy is also in the interest of the fishermen themselves. The principles of responsible fishing and a sustainable fishing effort are by now the commonly accepted basis for ensuring rational resource management and for guaranteeing the long-term prospects for a profitable activity for the fishermen themselves.

3. It is in this context of renewed attention to strengthening international cooperation that one must view the intention of the Italian Government to submit by the end of this month the law ratifying the ICCAT Convention for parliamentary approval. The first conservation and resource management measures applicable in both the Atlantic and the Mediterranean that have been adopted by this new international organization have been, moreover, already made provisionally operative by a Community regulation approved on June 11, 1996, and Italy is ready to adopt at the national level the possible implementation or supplementary enforcement measures necessary to ensure full respect for the decisions adopted by that body even before the formal ratification of the Convention.

4. Regarding the specific problem of driftnet fishing, the Italian Government, as well as the European Union, is fully aware of the social implications of a change, even to the point of abolishing a fishing activity that has ancient traditions, and which provides the sole sustenance for many families. But we must be aware of the fact that the ban on the use of driftnets longer than 2.5 km established by the Community in 1992, corresponds to specific trends in the international community, which found its expression in UN General Assembly Resolution No. 46/215 of 1991, to which Italy could not and cannot but confirm its full adherence.

5. It is the intention of the Government on the occasion of the Diplomatic Conference on the Management of Fishing Activity in the Mediterranean Basin, which will take place in November 1996 in Venice, to point out the interest and obligation of all participating countries to recognize the need to arrive at the prohibition of the use of all driftnets in the Mediterranean by the end of the 1997 fishing season. At the same time, it is our intention to request and ensure that this action be conducted on both the bilateral and multilateral levels by all of the governments that have shown themselves to be particularly sensitive to this issue vis-à-vis the authorities of all those countries whose fishing vessels carry out driftnet fishing.

6. In the next few days, I shall present a rationalization and conversion plan for this specific sector to the [EU] Commission which will be facilitated by Community financing available through the Structural Funds,

as well as the usual national financing.

In view of formulating such a plan, negotiations are under way with the social partners.

Also on the basis of the intense contacts I have had with the Commission's services, I am confident that the plan will be approved within a very short time.

The conversion plan provides for the cancellation of all driftnet fishing licenses—which must be done in stages if it is to be effective and real —between 1997 and 1999, and will be accompanied by the surrender of the nets. Beginning with the 1997 fishing season, holders of driftnet fishing licenses will be able to choose between the complete abandonment of fishing activities and the conversion to other fishing techniques compatible with environmental requirements, without becoming dependent on public assistance. The plan thus provides for the completion of the conversion process by the 1999 fishing season.

By the beginning of the 1997 fishing season, moreover, the holders of driftnet fishing licenses who voluntarily participate in the reconversion plan will receive compensation for the suspension of driftnet fishing. However, those fishermen who do not make such a request will not have access to any benefit provided by the program and in case of violation of the law (i.e. of the current national and community statutes regarding fishing or even the mere possession of nets longer than 2.5 km) will be subject to the applicable administrative and criminal sanctions.

The EU Council is currently examining a proposed regulation, which will be appropriately modified for the purpose of carrying out the conversion plan and which will provide for the suspension of all driftnet fishing.

This is a considerable financial effort on the order of at least 200 billion lire in the first phase of implementation, which bears witness to the importance that the Government and the Community duly attach to the grave economic and social implications which have been stressed forcefully by members of this trade as well. This effort will be made with consideration being given to solutions adopted also with regard to cases which present indisputable similarities with the driftnet issue.

7. The application of the laws and regulations should be based, first of all, on voluntary compliance by those affected, and on their conviction that these laws and regulations respond to general needs. But it is up to the State to ensure respect for the law and to provide itself with appropriate instruments to guarantee this.

During the present fishing season, and in order to implement international commitments made, the enforcement actions at sea and in the ports have already been remarkably intensified compared to the past, with particular attention being paid to the maximum permitted driftnet length, and any nets not permitted by existing law are being seized and turned over to the competent authorities.

Over and above the quantifiable results of this inspection activity—which has led to a quadrupling of the total of illegal nets seized—we have reason to believe that the intensification of the enforcement actions has already brought about a considerable reduction in fishing activities with illegal nets.

8. In the immediate future, in light of the indications that emerged from the inspection activities, of the patterns that have become established in the international context, and the concerns expressed by the Spanish Government regarding illegal fishing off the Balearic Islands, we shall soon introduce a ban on the use of Sardinian ports by driftnet vessels from other ports, keeping in mind that the Region of Sardinia, within the area of its jurisdiction, has already banned this type of fishing in its territorial waters.

9. However, the need to update the general framework of sanctions for violations of conservation and fishing resource management laws and regulations was emphasised and pointed out long ago. Community law, moreover, obliges the (EU) member states to provide for proportionate and effective sanctions.

A draft law was already presented to Parliament as early as 1993. 1 shall request the Council of Ministers to approve it once more before the end of July, so that it may be examined as soon as possible by the new Houses of Parliament.

The draft law will apply to all violations in the fishing sector, but it will also contain a specific escalation of sanctions for fishing with illegal driftnets (from suspension of the license to its definitive cancellation).

We hope that the more rigorous sanctions that will be introduced will be applied as little as possible. Not by chance, the action we have undertaken hinges in fact—as previously observed—on the voluntary, responsible, and quick compliance by the fishermen with the conversion plan agreed with the European Commission.

THE MINISTER OF AGRICULTURE, FOOD, AND FORESTRY RESOURCES

In view of Law No. 963 of July 14, 1965, and subsequent amendments, concerning the discipline of marine fisheries, and in particular Art. 32;

In view of the regulations for the implementation of that Law No. 963/65, approved by Presidential Decree No. 1639 of October 2, 1968, and subsequent amendments;

In view of Law No. 41 of February 17, 1982, concerning the plan for the rationalization and development of marine fisheries;

In view of the ministerial decrees of July 20, 1989, October 25, 1989, March 30, 1990, July 18, 1990, July 30, 1990, May 22, 1991, and August 6, 1991, concerning driftnet fishing;

In view of EEC Regulation 345/92 of January 27, 1992, concerning the activity of driftnet fishing;

In view of the Sardinian Regional Law No. 10 of May 13, 1988, banning fishing with driftnets in the waters of the territorial sea of Sardinia;

In view of Decision No. 12310 of November 28, 1995 of Civil Section I of the Court of Cassation affirming in particular the principle according to which the need to safeguard the marine fauna is cause for pushing back the threshold of punishability and place both the catching of fish and the preparations for actual fishing operations on the same plane;

Considering that a plan of rationalization is about to be submitted providing for the necessary measures to provide incentives for the reconversion of driftnet fishing activities;

Convinced of the necessity of adopting measures suited to ensure respect for Community and national laws concerning the use of driftnets and to reduce, in accordance with Art. 4 of Law No. 41 of February 17, 1982, the catch of swordfish in the zone of the sea immediately adjacent to the territorial sea of the Region of Sardinia;

Having heard the Central Consultative Commission for marine Fisheries and the Committee for the Management and Conservation of Marine Biological Resources at the sessions of July 10, 1996 and July 22, 1996;

DECREES

Art. 1

1. In consequence of the ban on the use of driftnets imposed by Sardinian Regional Law No. 10 of May 13, 1988, in the area of the sea adjacent to the territory of the Region of Sardinia extending for 12 nautical miles measured from the baseline as defined in Art. 2 of the Navigation Code, for vessels authorized to use driftnets and registered in other maritime sectors than those of Sardinia, it shall be forbidden to dock in Sardinian ports for the purpose of technical and logistic operations connected with swordfish fisheries.

2. For vessels bearing an authorization, on their fishing license to engage in driftnet fishing and registered in the maritime sectors of the Region of Sardinia, docking in Sardinian ports for the purpose of the above-mentioned operations shall be controlled by the competent regional body.

Art. 2

1. Violations of the provisions of this decree shall be prosecuted in accordance with the laws in force.

This decree shall be published in the Official Gazette of the Italian Republic and shall enter into force on the day after its publication.

Rome, July 23, 1996

THE MINISTER
signature

DRAFT LAW AMENDING LAW NO. 963 OF JULY 14, 1965 ON THE DISCIPLINE OF MARITIME FISHERIES

Art. 1

1. Article 15 of Law No. 963 shall be replaced as follows:

"Art. 15

(Protection of biological resources and fisheries)

1. In order to protect the biological resources of the sea, and to ensure disciplined fishing activity, it shall be unlawful to:

a) fish in zones and at times that are forbidden by the rules, decrees, and regulations legitimately issued by the competent administrative authorities, and to hold, transport, and trade in the product of such fisheries, as well as to catch quantities in excess of those authorized for any species or living organism, by rules, decrees, and regulations legitimately issued by the above-mentioned administrative authority, or to navigate at times of day forbidden by the rules and decrees without appropriate authorization by the maritime authority;

b) fish with ships or barges, gear, or instruments that are forbidden by the regulations or not expressly permitted, or used in a manner different from that permitted by the regulations, or keep forbidden gear on board, or gear not expressly permitted or not corresponding to regulatory norms, or place stationary or mobile equipment for purposes of fishing without authorization or in a manner diverging from the necessary authorization, as well as hold, transport, and trade in the product of such fishing activities;

Art. 7

1. Article 27 of Law No. 963 of July 14, 1965, as amended by Article 9 of Law No. 381 of August 25, 1988, shall be replaced as follows:

"Art. 27

(Accessory administrative sanctions)

1. For violations of Article 15, letters a) and b), the following accessory administrative sanctions shall be applied:

a) confiscation of the catch;

b) confiscation of the instruments, gear, and fishing equipment used in contravention of the provisions of this law, excepting the vessels;

c) obligation to put the zones in which unauthorized works or facilities were constructed back into their original condition within a pre-established period;

d) suspension of the fishing license for a period not to exceed one month, which can be increased up to six months in case of repeated violations. The suspension of the license prevents the use for fishing purposes of the vessel or barge and its gear and equipment used in the violation. If a subsequent violation is committed by use of a vessel or barge which is not the same as the one used in the first violation, the suspension shall be applied in equal measure to both;

e) in case of repeated violations, closing of the commercial establishment by the competent commercial authority from five to fifteen days;

f) in case of a first proven violation of Article 15, letter b) by vessels authorized to use driftnets, suspension of the fishing license for a period of up to one month; in case of a second violation of Article 15, letter b), suspension of the fishing license for a period of up to three months; in case of a third violation of Article 15, letter b), complete cancellation of the driftnet authorization on the license".

PLAN FOR THE RATIONALIZATION AND CONVERSION OF DRIFTNET FISHERIES

July 25, 1996

1. Introduction and Context

The necessity of restructuring the driftnet fishing fleet, also referred to as the "swordfish fleet", i.e. the vessels which practice swordfish fishing with the use of driftnets, is essentially based on the need to protect the marine mammals and to adequately conserve swordfish stocks.

The opposition of the environmentalists, fishermen who use other fishing techniques, and strong pressure from the U.N., persuaded the European Union in 1992 to adopt regulatory measures to limit the use of driftnets above a certain length, and thereby to reduce the danger to the marine ecosystem.

Since the existing laws allow the use of driftnets of a maximum length of 2.5 km, and since according to the representatives of that sector the compliance with that limit causes economic difficulties for those involved in this activity, all measures that could ensure the conversion of that sector with the help of the European Union have been examined.

Following the agreements between Commissioner Bonino and the Minister of Agricultural Resources, a mixed technical group has been established, composed of the Services of the Commission and representatives of the National Administration, whose mandate is to propose conversion measures for the fleet in question, in order to eliminate driftnet fishing gear in accordance with a three-year plan.

The Technical Group submitted its final report on June 20.

2. Description and Social and Economic Importance of the Driftnet Fleet.

Annex 1 lists the complete data on the driftnet fleet, with numbers of vessels, their internal numbers, and an analytical subdivision by segments concerning the type of license issued to the owners in addition to those for driftnets.

These data are complemented and integrated through social and economic indicators relative to the entire driftnet fleet, giving the location of the vessels (Annex 2).

The Services of the Commission have provided for verification of the data furnished by the National Administration in the Community Fleet Register, drafting a final list and identifying each vessel by type of license, length, tonnage, and engine power (Annexes 3 and 4).

These data show that the conversioin to other fishing systems is an operational (lack in some cases of gear for other fishing methods) and socio-economic problem, and not a juridical one, since practically all the vessels of the driftnet fleet have licenses for at least one other method of fishing.

Concise Data on the Driftnet ("Swordfish") Fleet as of June 18, 1996:

— Number of vessels (total):

- 677 (the majority of which are deployed in the Regions of Objective 1, more particularly 252 in Sicily and 82 in Calabria)

— Vessels with different licenses besides driftnet licenses (principal segments):

- 328 Driftnets + encircling nets + other systems
- 171 Driftnets + longlines + other systems
- 89 Driftnets + bottom trawl + encircling nets + other systems

— Distribution of the fleet by tonnage class:

- 0 < 20 GT 478 vessels
- 20 < 40 GT 147 vessels
- > 40 GT 52 vessels.

— Workforce on vessels:

- 2,658 (of whom 1,760 are inscribed in the Sicilian registers)

— Workforce indirectly dependent on the activity of the "swordfish" fleet:

- 850

— Total workforce involved:

- 3,500

— Crew per vessel:

- this datum is variable up to a maximum of 5.

Estimated Economic Data (1994)

— Median income per crew member per fishing season (60/80 days (not all on active duty)):

- 7.6 million lire

— Median income per shipowner working on board per fishing season (60/80 days (not all on active duty)):

- 27.7 million lire

— Total annual production:

- 33.3 tons

— Value of annual saleable gross production:

- 72 billion lire.

3. Legal Framework

The regulatory structure of the Community includes:

a) EEC structural regulations No. 2080/93 and EC No. 3699/93, and the SFOP Operative Programs derived from them;

b) EC Regulation No. 2719/95, amending EC Regulation No. 3699.93 by inserting the provision for Community intervention for social and economic measures;

c) the Multi-Year Conversion Program for the Italian fleet.

Regarding the structural SFOP regulations, it has been proposed:

a) to implement an early retirement regime in accordance with Regulation 2719/95, even though a diminished impact of such an action is expected due to the implementation conditions and the amount available;

b) the recourse to the financial means already available in the SFOP Operative Programs through reprogramming to be realized within the framework of the respective oversight committees.

There are proposals for the creation of an ad hoc driftnet segment in the future Fisheries Plan IV, with the subsequent elimination of these vessels from the "multivalent" segment.

A "specific measure" for the utitlization of the resources relative to payment of interim compensation ("for waiting") appears necessary, as well as finding possible additional funds and possibly exceeding the ceilings of intervention provided by the existing Community legislation.

4. Content of the Conversion Plan

The present plan is aimed at voluntary conversion, rationalization of driftnet fishing, occupational stability, and income continuity, for the purpose of preserving as a precautionary principle the halieutic resources from overexploitation by fishing as hypothesized for this segment of the fleet and to avoid by-catches.

The plan is based on the existing regulations and within these limits includes a direction in which, without prejudice to Community laws which may modify such a direction, the exercise of fishing activities with nets not exceeding a length of 2,500 meters is guaranteed to those (fishermen) who have not applied for participation in the plan.

In this framework, the plan provides strong incentives for fishermen and shipowners to convert to other types of fishing or to other activities, both within and outside the sector, or to retire completely. The plan provides for the adoption of a ceiling on specific extraordinary allocations, both on the national and Community level, to be supplemented through limited use of SFOP 94/99 funds. These funds will ensure the financing of the incentives and compensations provided by the plan to make the opportunities for conversion attractive to enterprises and employees alike.

To facilitate voluntary compliance on the part of the recipients, the voluntary, and therefore not compulsory, character of the plan, which during the three years of its implementation from 1997 - 99, will not be combined with measures aimed at suspending or interdicting fishing activities with nets of these dimensions, guaranteeing, on the contrary, their legitimacy with the modalities and within the limits imposed by the Community and national laws in force, which will be observed very strictly.

The plan therefore:

a) is a voluntary plan;

b) is a comprehensive plan which provides for and examines all possibilities for reorientation and conversion applicable to all persons involved (shipowners as well as crews);

c) outlines the entirety of available means, both on the national and Community level, for its implementation;

d) has a progressive character, since it is to be implemented over a period of three years (1997 - 1999);

e) considers the importance which must be attached to the compensation for renouncing driftnet gear in relation to the income levels which that activity guarantees and to the differences in income level guaranteed by other types of fishing activities;

f) will be a powerful incentive;

g) is innovative inasmuch as in order to reach the objectives that have been set, it takes the opportuneness of taking recourse to legal ad hoc measures, and if necessary to modifications of the present Community regulations into consideration;

h) is a flexible plan, taking the different real situations into consideration and providing for a spectrum of hypothetical actions that can be applied to the different subjects, giving them the option to choose the solution that best fits their own needs;

i) will take shape along pre-established lines for each kind of compensation, with an obligation for those who have participated in the first stage of one of these actions to stay on board for the subsequent stages;

j) due to the fact that the greater part of the driftnet fleet is concentrated in Regions within Objective 1, the plan provides the possibility for making use of all the EU structural funds in order to create alternative activities, and in particular the FSE and FESR. In view of the realities of the Regions involved, tourism would be the most easily realizable alternative activity.

5. Measures

The Plan considers the applicable conversion measures and related forms of financial intervention according to three hypotheses relative to the shipowners and three hypotheses relative to the crews.

General Considerations

— Within the framework of what is set out in the preceding paragraph, the sector will be declared to be in a state of crisis.

— As regards the measures for conversion to another sector to be facilitated by the regional FSE and FESR, preliminary coordinated working groups will be established in order to identify initiatives to propose to the individual regional administrations for the purpose of programming or rather reprogramming the pertinent sectoral programs. A meeting is to be held before September 20 on the initiatives in question with the regional administrations involved in order to set up these groups. Before November 30, the technical working group will formulate the operative proposals to the relative region.

— Similarly, working groups shall be set up to propose initiatives to the Administration of Agricultural Resources for the SFOP aquaculture projects, facilities on land, and modernization.

— For all procedures provided in the Plan, the Ministry shall establish an ad hoc structure in order to guarantee the procedural timeframes set by the Plan.

— Also provided is an interim compensation ("for waiting") for 1996 for up to four months, to the extent provided for in the subsequent forms. The compensation shall correspond to the period of time for which the effective interruption of the activity has been proven.

— Regarding the composition of the crew, reference is made to the personnel on board on July 22, 1996, or, in case there was no activity in 1996, to the personnel on board during the 1995 fishing season. The compensation for cessation of fishing operations shall amount to 100% for workers who have been on the job for three years (in reference to the fishing season); 80% for those with two years; 50% for those who have worked for one year. Reference is made to the relative discharge papers.

— The application for the compensation for the cessatioin of fishing operations and interim compensation for each of the years 1997, 1998, 1999 must be filed respectively before January 31, 1997, January 31, 1998, and January 31, 1999.

— The beneficiaries who have been approved for the benefits of the plan and who are continuing fishing activities with the driftnet fleet even within the allowed limits must return any compensation received plus legal interest.

Shipowners

First Hypothesis: Definite Withdrawal from Fishing Activity

a) Interim Compensation (the equivalent of six months) on the basis of Article 14 - Annex IV - table 2 of EU Regulation No. 3599/93; the compensation shall be paid to each applicant starting in 1997 and shall end in the year the measures described in letter b) below are implemented:

b) the compensation for the surrender of the license and of the driftnets will be decreasing relative to the year in which such operations shall be carried out, in accordance with the following table:

Class of vessel by tonnage	Compensation for Withdrawal in Ecu 1997	1998	1999
0 < 5	26.000	23.000	20.000
5 < 20	104.000	92.000	80.000
20 < 40	120.000	105.000	93.000
> 40	156.000	138.000	120.000

c) the premium for the demolition of the vessel will be in accordance with EU Regulation 3699/93. Forty percent of the financial ceiling for each of the years 1997, 1998, and 1999 shall be reserved for these initiatives. The documentation must be completed within 30 days after notification by the Ministry.

Second Hypothesis Conversion to Another Activity Outside the Fishing Sector

a) The interim compensation (equivalent to six months) on the basis of Article 14 - table 2 - of EU Regulation No. 3699/93; the compensation shall be granted to any applicant starting in 1997, and ending in the year the measure described in letter b) below is implemented;

b) the compensation for surrender of the license and the driftnets shall be decreasing in relation to the year in which these operations are carried out in accordance with the table mentioned in item b), first hypothesis;

c) the premium for the demolition of the vessel in accordance with EU Regulation 3699/93. The documentation must be completed within 30 days after notification by the Ministry.

d) Financial participation in the measures provided for by the FSE and FESR regional funds is at present not quantifiable; or else 60 initiatives shall be admitted on a priority basis, each for a maximum amount of 2,000 million at the expense of the SFOP funds for aquaculture projects and facilities on land. If the initiatives are presented jointly by several subjects which all qualify for the benefits of the plan, the maximum amount for each initiative shall consist of 2,000 million established for each initiative increased by 25% multiplied by the number of these subjects. The maximum ceiling of 4,500 million for aquaculture and 10,000 million for facilities on land established by the national laws shall remain in place.

In order to facilitate the conversion of the workforce, a public contribution of 85% of the permissible costs is being provided to the beneficiary who hires the workers, taking them completely off the list of those who need to be provided with work following the conversion; 70% of the permissible costs shall be paid to the beneficiary who hires workers at the level of 50%; and the usual percentage to the beneficiary who hires workers below the 50% level. In order to guarantee the occupation of those hired, the beneficiary must provide security in the amount of the differential between the usual limit and that obtained for a period of three years after the granting of the subsidy. The applications can be filed before January 31, 1997, June 30, 1997, and January 31, 1998; the applications themselves shall be approved in chronological order of filing until the limit of 60 initiatives to be financed will be reached. Cases with complete documentation shall receive preferential treatment vis-à-vis cases with incomplete documentation.

Third Hypothesis: Change to Other Fishing Activities.

a) Interim compensation (equivalent of six months) on the basis of Article 14 - Annex IV - table 2 of EU Regulation No. 3699/93; the compensation shall be granted starting in 1997 until the year the measure described in the letter b) below is implemented;

b) Compensation for surrender of the license and driftnets shall be decreasing in relation to the year in which such operations are carried out in accordance with the table in item b) of the first hypothesis;

c) priority treatment regarding the SFOP funds is to be given to the "fleet modernizations" project for the purpose of allowing the adaptation of the units to the new fishing activity. Forty percent of the SFOP ceiling for each of the years 1997, 1998, and 1999 shall be reserved for modernization initiatives, up to a limit of three hundred units. A public subsidy of up to 85% of the permissible costs shall be granted; the initiatives must not represent an increase in capacity in terms of tonnage and (engine) power. The applications for all three years must be filed by January 31, 1997; before February 28, 1997, the parties shall meet in order to evaluate the number of applications and for the purpose of identifying suitable initiatives if the applications that were filed should be in excess of the hypothetical number of 300 units. The applications shall be reviewed in chronological order as determined by the time of completion of the documentation that must be enclosed; the applicants can complete the documentation within 30 days from the date of filing;

d) regarding the regime of the licenses, the units shall be granted the addition of a permit for encircling nets and a type of gear for select small-scale fisheries. The provisions of the Ministerial Decree of July 26, 1995 shall apply to vessels under 10 tons. The updating of the license shall be arranged by the Ministry within a month from the application.

e) concession of a license for gear for selective small-scale fisheries to an interested party who demolishes (also for a premium) vessels in excess of 20 tons in order to build a boat of up to 10 tons with his own funds.

Crews

First Hypothesis: Definite Cessation of Fishing Activities by the fisherman.

a) Interim compensation - specific measure by the Council equivalent to six months, applying the minimum contractual social security, in respect to which the Commission intervenes in accordance with the measure established by Council Decision No. 95/451/EC of October 26, 1995; the compensation shall be paid starting in 1997 until the year the measures described in letters b) and c) below are implemented;

b) Compensation for cessation of activities in the amount of 50,000 Ecu;

c) application of Art. 14 bis of Regulation 2719/95 for admission of 200 workers to the "early retirement" program (according to the terminology of the Regulation), applying the modalities of the plan of so-called long-term mobility. In particular, this is an intervention on behalf of the workers who become eligible for that program due to years in service or age, and who apply by March 31, 1997. The worker shall be paid the difference between the contractual minimum social security payment and the compensation amount. In case the number of persons entitled to this measure exceeds 200, the parties shall meet in order to determine the instruments by which the additional financial burden can be covered. Meetings are planned with the competent Administrations and the representatives of employers and employees in order to define the technical contents of the measure.

Second Hypothesis: Continuation of (Fishing) Activity on Other Vessels

a) Interim compensation - a specific Council measure equivalent to six months, applying the minimum contractual social security, in respect to which the Commission shall intervene in accordance with the measure established by Council Decision No. 95/451/EC of October 25, 1995; the compensation shall be paid starting in 1997 until the year the measure described in letter b) below will be implemented until the activity is resumed on other vessels;

b) the compensation for cessation of activities shall be 20,000 ECU.

Third Hypothesis: Conversion of the Fisherman to Another Sector

a) The compensation for waiting is a specific Council measure equivalent to six months with the application of the minimal contractual social security payment, with respect to which the Commission shall intervene in accordance with the measure established in Council Decision No. 95/451/EC of October 26, 1995; the compensation shall be paid starting in 1997 until the year in which the measures described in letter b) below is implemented and until the activity is resumed in another sector;

b) the compensation for cessation of activities shall be 20,000 ECU;

c) the compensation for changing to a new job (cost sharing by FSE and FESR) on a regional basis is at present not quantifyable.

6. Financial Evaluation of the Measures

As already mentioned, it is clear that there is a need for all the Community structural funds (FSE, FESR, and SFOP) to provide support. However, the available resources under the SFOP program shall be used exclusively for measures of "complete cessation", "fleet modernization", "aquaculture", and "facilities on land".

In addition to the resources necessary for implementing the classical SFOP structural measures (premiums for complete cessation, fleet modernization, and early retirement), the overall ceiling of the costs can be estimated at about 200 million Ecu (440 billion lire). These are the additional financial resources needed to stimulate the surrender of the nets and licenses and for the interim compensation motivated by social considerations.

These estimates are based on the following hypotheses:

a) application of the numbers mentioned in paragraph 5 "Planned Measures";

b) complete withdrawal from fishing by 30% of the driftnet fleet.

Annex 1 B

The principal social and economic indicators regarding driftnet fishing.

The following estimates were worked out on the basis of the available data collected through a specific investigation of the production sector in question carried out by Acquastudio and Irepa in 1994 at the request of the General Fisheries Directorate. It is not assumed that substantial changes have taken place in the meantime, except for a modest increase in the prices paid to producers.

1. General Characteristics

The total production can be estimated at about 33,000 tons for a gross saleable production of little more than 72 billion lire.

The fleet is concentrated in only seven Regions, but 66% are registered in the Sicilian Sectors, and another 20% in the Sectors of Calabria. This means that of the 2,658 workers estimated to be directly involved in produc-

tion activities, at least 1,760 are inscribed in the Sicilian Registers, and 512 in the Calabrian Registers. It is estimated that 5% of the workers are located in Campania, while even smaller percentages are reported for Liguria, Apulia, Latium, and Sardinia. The workers indirectly dependent on the fishing industry are estimated at about 850, making up a total of 3,500 workers whose livelihood depends on driftnet fisheries.

The income produced by this fishing activity is not relevant in absolute terms. However, its dimension becomes significant when one considers that the fishing season limited to no more than 60/80 days, and not even all of these are active working days. The investment costs are therefore high vis-à-vis the limited period of activity. Consequently, the quota of income that the shipowners derive from capital takes precedence over that derived from the labor performed on board. This also means that the income of the employees of the fishing fleet can be transferred to other segments of the national fishing fleet. In that sense, in view of the short fishing season, the median income realized by a fisherman on a fishing boat equals about 7,5 million (lire), although there is some difference between the more than eight million of a Sicilian fisherman and the roughly six million of a fisherman from Campania.

Adding the income from capital to that from work on board, we arrive at a national median total of about 28 million, although with a significant difference between the 31.6 million achieved in Sicily and the 25.3 million in Calabria. This difference can, moreover, be attributed to the greater number of partners on board which characterizes ship ownership in Calabria compared to the situation in Sicily.

More significant differences can obviously be found when taking the diverse classes of tonnage into account and not only regional differences. In that case, while the income from work on board does not express significant differences between the almost 7 million per employee on a vessel of up to 10 GT and the almost 9 million earned by an employee on a vessel of over 40 GT, the same is not true for the median income of a shipowner who works his own boat. In that case, in fact, the difference is between less than 20 million for the smallest class of vessel and up to 56.3 million for a larger vessel, with the national median being 27.7 million.

2. Impact of the Elimination of Driftnets

In addition to the occupational effects, which obviously are of primary concern, one must also observe that the elimination of the driftnets will have the following consequences:

— The pressure will be transferred to other stocks already being exploited, which will make their management more difficult;

— the total profitability of the system is reduced because of the consequent concentration of vessels operating in the same areas and fishing the same species;

— domestic consumption will have to be satisfied by increased imports;

— the long-line and bottom trawl systems will most probably absorb a large part of the vessels that have to abandon the driftnet system.

BILATERAL

LATVIA

FISHERIES

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the Republic of Latvia of 8 April 1993, as extended, concerning Fisheries Off the Coasts of the United States, Riga, 1997

Done at Riga 13 February and 23 May 1997

Entered into force 1 March 1999

Primary source citation: Copy of text provided by the U.S. Department of State

No. 03

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and refers to the Agreement between the Government of the United States of America and the Government of the Republic of Latvia Concerning Fisheries Off the Coasts of the United States, with Annex, signed at Washington, April 8, 1993, as extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 31, 1997, be extended for an additional two year period, until December 31, 1999. If this proposal is acceptable to the Government of the Republic of Latvia, the Embassy proposes that this note and the Government of the Republic of Latvia's favorable note in reply shall constitute an agreement between the two Governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America in Latvia avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurance of its highest consideration.

[Seal]

Embassy of the United States of America,

Riga, February 13, 1997.

MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF LATVIA

No. 41/358-736

The Ministry of Foreign Affairs of the Republic of Latvia presents its compliments to the Embassy of the United States of America and has the honour to refer to its Note No.03, dated February 13, 1997 concerning the Agreement between the Government of the Republic of Latvia and the Government of the United States of America Concerning Fisheries Off the Coasts of the United States, signed in Washington on April 8, 1993.

The Republic of Latvia agrees on proposed extension of the aforementioned Agreement until December 31, 1999 and informs that the legal requirements necessary for the entry into force of extension of the said Agreement have been fulfilled.

The Ministry of Foreign Affairs of the Republic of Latvia avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Riga, May 23 , 1997

[Seal]

To the Embassy of
the United States of America
RIGA

BILATERAL

LITHUANIA

FISHERIES

Agreement extending the Agreement Between the Government of the United States of America and the Government of the Republic of Lithuania of 12 November 1992, as extended, concerning Fisheries off the Coasts of the United States, Vilnius, 1996

Done at Vilnius 5 June and 15 October 1996

Entered into force 14 July 1997, expired 31 December 1998

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 165/96

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Lithuania. The Embassy of the United States of America refers to the Agreement of the Government of the United States of America and the Government of the Republic of Lithuania concerning Fisheries off the Coasts of the United States, with annex, signed at Washington November 12, 1992, as extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 31, 1996, be extended for an additional two year period, until December 31, 1998. If this proposal is acceptable to the Government of the Republic of Lithuania, the Embassy proposes that this Note and the Government of the Republic of Lithuania's favorable Note in reply shall constitute an Agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of Diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America
Vilnius, June 5, 1996

REPUBLIC OF LITHUANIA
MINISTRY OF FOREIGN AFFAIRS

480/96

The Ministry of Foreign Affairs of the Republic of Lithuania presents its compliments to the Embassy or the United States of America and has the honour to refer to the note of 5 June 1996, Number 065/196, the text of which is as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Lithuania. The Embassy of the United States of America refers to the Agreement of the Government of the United States of America and the Government of the Republic of Lithuania concerning Fisheries off the Coasts of the United States, with annex, signed at Washington November 12, 1992, as extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 31, 1996. be extended for an additional two year period, until December 31, 1998. If this proposal is acceptable to the Government of the Republic of Lithuania, the Embassy proposes that this Note and the Government of the Republic of Lithuania's favorable Note in reply shall constitute an Agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of Diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration."

In reply, the Ministry has the honour to confirm that the foregoing proposal is acceptable to the Government of the Republic of Lithuania and that the Embassy's note and this note shall constitute an Agreement between the two Governments which shall enter into force on the date to be determined in a subsequent exchange of Diplomatic notes following the completion of all necessary internal procedures of both parties.

The Ministry of the Republic of Lithuania avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

[Seal]

Vilnius, October 15, 1996

Agreement extending the Agreement Between the Government of the United States of America and the Government of the Republic of Lithuania of 12 November 1992, as extended, concerning Fisheries off the Coasts of the United States, Washington, DC, 1998

Done at Washington, DC 16 and 17 September 1998

Entered into force (not in force)

Primary source citation: Copy of text provided by the U.S. Department of State

The Department of State acknowledges receipt of note No. 221/98 from the Ministry of Foreign Affairs of the Republic of Lithuania, dated April 20, 1998, which proposed extending the Agreement between the Government of the Republic of Lithuania and the Government of the United States of America Concerning Fisheries off the Coasts of the United States, with annex, signed at Washington November 12, 1992, as extended (the Agreement), which is currently scheduled to expire on December 31, 1998, for an additional two year period.

On behalf of the Government of the United States of America, the Department wishes to proposes instead that the Agreement be extended for an additional three year period, until December 31, 2001. If this proposal is acceptable to the Government of the Republic of Lithuania, the Department further proposes that this note and the Embassy's favorable note in reply shall constitute an agreement between the two governments, which shall enter into force on a date to be determined in a subsequent exchange of notes following the completion of all necessary internal procedures of both governments.

Department of State,
Washington, September 16, 1998.

LIETUVOS RESPUBLIKOS AMBASADA
VA'INGTONAS

EMBASSY OF THE REPUBLIC OF LITHUANIA
WASHINGTON, D.C.

Nr. 90

The Embassy of the Republic of Lithuania presents its compliments to the Department of State of the United States of America and has the honor to refer to the Department of State Note, September 16,1998 regarding the proposal to extend the Agreement between Government of the Republic of Lithuania and the Government of the United States of America concerning Fisheries off the Coast of the United States, signed at Washington November 12,1992, for three-year period, until December 2001.

The Embassy of the Republic of Lithuania on behalf of the Government of the Republic of Lithuania agrees with the proposal to extend the Agreement for a three- year period, until December 2001.

This favorable Note in reply shall constitute an agreement between the two governments, which shall enter into force on date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the Republic of Lithuania avails itself of this opportunity to renew to the Department of State of the United States of America the assurance of its highest consideration.

Washington, D.C.
September 17, 1998

[Seal]

The Department of State
of the United States of America
Washington, D.C.

BILATERAL

MEXICO

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Agreement on Cooperation to Improve the Management of Arid and Semi-Arid Lands and Control Desertification, Mexico City, 1979

Done at Mexico City 16 February 1979

Entered into force 16 February 1979

Primary source citation: United Nations Treaty Series

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION TO IMPROVE THE MANAGEMENT OF ARID AND SEMI-ARID LANDS AND CONTROL DESERTIFICATION

The Government of the United States of America and the Government of the United Mexican States,

Concerned because the desertification phenomenon presents a growing threat to the economic and social well-being of large sectors of the population of both countries;

Recognizing the benefits which can be derived from the implementation of the recommendations of the Global Plan of Action to Combat Desertification adopted at the United Nations Conference on Desertification in Nairobi, Kenya, in 1977;

Considering that possibilities exist for controlling desertification and for restoring and enhancing the productive capacity of arid and semi-arid lands through the application of new policies, programs and practices of proper resource management;

Emphasizing that cooperation to solve common desertification-related problems may produce important mutual benefits, including an increase in the pace, efficiency and effectiveness of the respective national plans on desertification that each Government is developing, and

Noting that the consultations on desertification between the two Governments have provided adequate guidance and a framework for expansion of cooperation in this field,

Have agreed as follows:

Article I. 1. The two Governments shall promote cooperation for the purposes of controlling desertification and protecting and enhancing the productive capacity of the agricultural lands, rangelands and forests of each country's arid and semi-arid zones.

2. The institutions which principally will develop the operative activities of cooperation under this Agreement will be, for the United States of America, the Department of the Interior and the Department of Agriculture, and for the United Mexican States, the Secretariat of Agriculture and Hydraulic Resources, the Secretariat of Human Settlements and Public Works, and the National Commission for Arid Zones.

Article II. 1. Cooperation under this Agreement shall be undertaken in the conservation of soil and water; the management of watersheds, rangelands and forests; the identification, inventory and continuing assessment of desertification; the management and utilization of flora and fauna native to arid and semi-arid zones; and other subjects which may be defined by agreement of the Parties.

2. Cooperation may include the exchange of scientific and technological information; exchange of scientists and other technical and research personnel; the planning and conduct of joint or coordinated research, management and demonstration projects; the organization of joint courses, conferences and symposia; and other forms of cooperation as may be mutually agreed.

3. Under this Agreement, initial priority shall be given to the following:

(*a*) Soil and water conservation on agricultural lands, rangelands and forests, with a view toward increasing food production and preserving the ecological balance;

(*b*) Conservation, regeneration, utilization and commercialization of and zone native species with a view toward expanding employment opportunities and income generation in the rural areas; and

(*c*) Completion of the National Desertification Plans of each Government, with a view toward coordinating policies and programs in the fields of arid and semi-arid land management and desertification control.

Article III. 1. To facilitate cooperation under this Agreement, each Government shall designate a National Coordinator.

2. The National Coordinator for the Government of the United States will be the Department of State and the Coordinator for the Government of Mexico will be the Secretariat of Programming and Budget.

3. The National Coordinators shall serve as the principal points of contact of the two Governments and shall work closely in facilitating, coordinating and reviewing cooperative activities under this Agreement.

4. The National Coordinator of each Government, in consultation with the agencies and other entities which participate in the cooperative programs, shall be responsible for coordinating the activities to its country which arise as a consequence of this Agreement.

Article IV. 1. Pursuant to the objectives of this Agreement, the two Governments, through their National Coordinators, shall encourage, facilitate and authorize, as appropriate, contacts, the negotiation of accords, and cooperation between Government agencies, universities and other entities of both countries for the conduct of specific cooperative activities.

2. Specific accords implementing this Agreement may cover the subjects of cooperation, procedures to be followed, treatment of intellectual property, funding and any other appropriate matters.

3. Costs shall be borne as mutually agreed by the participants.

4. All cooperative activities undertaken pursuant to this Agreement shall be subject to the availability of funds.

Article V. The two Governments shall endeavor to promote and contribute to the rapid implementation of the United Nations Global Plan of Action to Combat Desertification through measures which may include:

1. Inviting, when appropriate and by mutual agreement of the National Coordinators, entities and scientists, technical experts, and resource planners and administrators of third countries or of international and regional organizations to participate in cooperative activities under this Agreement; and

2. The joint distribution of information and data generated by this Agreement to other governments and inter-

national and regional organizations, particularly to the United Nations Environment Program (UNEP) and to the Economic Commission for Latin America of the United Nations (ECLA).

Article VI. Scientific and technological information derived from cooperative activities under this Agreement may be made available, unless agreed otherwise in specific accords under article IV, to the world community through customary channels and in accordance with the normal procedures of the participating entities.

Article VII. 1. Cooperative activities under this Agreement shall be subject to the laws and regulations in each country.

2. Each Government shall, with respect to cooperative activities under this Agreement, use its best efforts to facilitate prompt entry into and exit from its territory of equipment and personnel of the other country.

Article VIII. 1. None of the provisions of this Agreement shall be construed to prejudice other Agreements or arrangements between the two Governments.

2. Cooperative activities carried out under this Agreement shall be developed in a manner that complements and reinforces those activities carried out pursuant to the 1972 Agreement on scientific and technical cooperation between the United States of America and the United Mexican States,[1] and in the 1977 Memorandum of Understanding signed by the Department of Agriculture of the United States of America and the National Council for Science and Technology of Mexico on Tropical Agriculture, Deserts, Livestock, Nutrition and Health.

Article IX. Representatives of the two Governments will meet as necessary in order to discuss the implementation of this Agreement and to exchange information about programs, projects and activities of common interest. Experts from each country, as mutually agreed, may participate in these meetings to address specific issues.

Article X. This Agreement will be governed by the following stipulations:

1. It will enter into force on the date of signature.

2. It will have a duration of three years, renewable by mutual agreement of the Parties.

3. Either Party may terminate this Agreement at any time, by written notice to the other Party. In this case, the Agreement will terminate six months after the receipt of such notice.

4. Termination of the Agreement shall not affect the validity or duration of specific accords which are concluded in conformity with article IV of this Agreement.

DONE in duplicate at Mexico, D.F., on February 16, 1979, in the English and Spanish languages, both texts being equally authentic.

For the Government
of the United States of America:
[Signed—Signé][2]

For the Government
of the United Mexican States:
[Signed—Signé][3]

[1] United Nations, *Treaty Series*, vol. 837, p. 145.
[2] Signed by Cyrus Vance — Signé par Cyrus Vance.
[3] Signed by S. Roel — Signe par S. Roel.

Amendments to Annex V of the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area of 14 August 1983, Mexico City, 1996

Done at Mexico City 7 May 1996

Entered into force 7 May 1996

Primary source citation: Copy of text provided by the U.S. Department of State

Note No. 0521

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations and refers the Ministry to discussions on August 25, 1995 in Washington, D.C., March 5, 1996 in Mexico City, and March 26, 1996 in El Paso, Texas between representatives of the government of the United States of America and the government of the United Mexican States concerning new appendices to Annex V to the Agreement on Cooperation for tile Protection and Improvement of the Environment in the Border Area, signed at La Paz on August 14, 1983 ("the Agreement").

The Embassy proposes that paragraphs 3 and 5 of Article I in Annex V be revised to read as shown on Attachment A hereto.

The Embassy further proposes that, as a result of the discussions noted above, the existing Appendix to Annex V to the Agreement be deleted and six new appendices, set forth in Attachment B hereto, be added to Annex V. Appendix 1 would create a Joint Advisory Committee for Air Quality Improvement in the Ciudad Juarez, Chihuahua/El Paso, Texas/Dona Ana County, New Mexico air basin, and appendices 2 through 6 would define geographic areas for study, labeled Study Areas "A" through "E".

If the foregoing proposal is acceptable to the Government of the United Mexican States, the Embassy proposes, in accordance with Article IX of Annex V, that this note and the Ministry's affirmative note in reply constitute an agreement between the Government of the United States of America and the government of the United Mexican States that shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations the assurances of its highest consideration.

Attachments:

A. Proposed Revisions to Article I of Annex V.

B. Six Proposed New Appendices to Annex V of Agreement.

Embassy of the United States of America,

Mexico, D.F., May 7, 1996.

ARTICLE I
DEFINITIONS

3. "Major stationary source" means any stationary source with emissions greater than 91 metric tons (100 tons) per year for which there is a specific air pollution control standard in force, any other source with emissions greater than 227 metric tons (250 tons) per year, and any other stationary source which the Parties mutually so designate for the purposes of this Annex.

5. "Ambient air quality standards" means critical ambient levels of air pollutants (e.g., the Normas Oficiales de Calidad del Aire (The Official Mexican Norms of Air Quality) and the National Ambient Air Quality Standards.)

APPENDIX 1

ANNEX V TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

Recalling that in the preamble to Annex V the Parties affirm their intention to ensure a reduction in air pollution concentrations for the benefit of their citizens living in the urban areas along the United States-Mexico border; and

Recognizing the importance of the participation of the local communities in carrying out the efforts to achieve this objective;

The Parties, having decided to establish a Joint Advisory Committee for the Improvement of Air Quality (hereinafter "the Committee") in the Ciudad Juarez, Chihuahua/El Paso, Texas/Dona Ana County, New Mexico air basin (hereinafter "air basin") ,

Have agreed as follows:

DEFINITION

The air basin is defined as the geographic area that includes El Paso County, Texas and those parts of Dona Ana County, New Mexico and the metropolitan area of Ciudad Juarez, Chihuahua that are within 100 km. of the border.

OBJECTIVE

The Committee is established for the purpose of developing and presenting recommendations to the Air Work Group established under the La Paz Agreement regarding strategies for the prevention and control of air pollution in the air basin.

SCOPE OF ACTIVITIES

The committee may develop recommendations for the Air Work Group on:

a) The joint development of studies and analyses on air quality monitoring and modeling, and air pollution prevention and abatement strategies in the air basin;

b) Exchanges of information on air quality matters such as air quality data, air emissions data, and data on compliance with each Party's air standards;

c) Technical assistance programs, technology exchanges, and training in areas relevant to preventing and reducing air pollution in the air basin;

d) Environmental education and outreach programs for the general public relevant to preventing and reducing air pollution in the air basin;

e) Exploring strategies to prevent and reduce air pollution in the air basin, including recommendations on emissions trading and other economic incentives as well as improving the compatibility of air quality programs in the air basin; and

f) Such other air quality improvement issues as the Committee may deem to be pertinent to the air basin and as may be recommended by the Parties.

The Parties will provide a guidance document to the Committee detailing more specific subject areas which the Committee should consider. This guidance document may be updated periodically by the Parties.

The recommendations may include analyses of the estimated costs, and possible financial sources, to implement the recommendations. The recommendations may also address the availability of technology and training necessary for their implementation.

STRUCTURE AND ORGANIZATION

The Committee will consist of 20 persons, ten of whom are to be selected by each Party, in close consultation with state and local governmental officials and the public in the air basin.

The ten U.S. representatives invited to serve on the Committee will include (i) one representative of the federal government; (ii) one representative from each of the governments of the States of Texas and New Mexico; (iii) one representative from local government in El Paso, Texas; (iv) one representative from local government in Dona Ana County, New Mexico; and (v) five persons, residing in the air basin, who are not employed by federal or any state or local government. At least one of these five persons will be a representative of the business community and at least one will be a representative of a nongovernmental organization, a major portion of whose activities concerns air pollution.

The ten Mexican representatives invited to serve on the Committee will include (i) one representative of the National Institute of Ecology (INE-SEMARNAP); (ii) one representative of the Federal Attorney for Environmental Protection (PROFEPA); (iii) one representative of the Federal Health and Welfare Agency (SSA); (iv) one representative of the environmental authorities of the State of Chihuahua; (v) one representative of the environmental authorities of the Municipality of Ciudad Juarez; and (vi) five Mexican citizens, residing in Ciudad Juarez, who are not employed by federal, state, or local government. At least one of these five persons will be a representative of the private sector, at least one will be a representative of a nongovernmental organization, a major portion of whose activities concerns air pollution, at least one will be a representative of the academic institutions of Ciudad Juarez, and at least one will be a representative of the Consulting Council for Sustainable Development in the Northern Region.

One federal representative from each side will preside over the Committee. The Committee will make decisions by consensus.

The Committee will establish its own rules of procedure, subject to approval by the Parties. Meetings of the Committee will generally be open to the public.

The Air Work Group will consider the recommendations of the Committee and inform the Committee of any action taken pursuant to such recommendations.

The recommendations of the Committee will not be binding on the Air Work Group or the Parties.

REVIEW AND TERMINATION

The Parties will periodically review the implementation of this Appendix.

This Appendix will remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its intention to terminate it or Annex V, in which case the Appendix shall terminate six months after the date of such notification.

APPENDIX 2

ANNEX TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purpose of Annex V, the Parties agree to define Study Area "A" as:

> El Paso County, Texas; that part of the State of New Mexico that is both south of latitude 32 degrees 00 minutes North and east of longitude 106 degrees 40 minutes West; and that part of the State of Chihuahua that is both north of latitude 31 degrees 20 minutes North and east of longitude 106 degrees 40 minutes West.

For Study Area "A" the Parties agree to define as selected pollutants the following: ozone, nitrogen oxides, non-methane hydrocarbons, carbon monoxide, sulfur dioxide, particulate matter, and lead.

For Study Area "A" the Parties agree to define as selected meteorological parameters the following: speed and direction of wind, and temperature and relative humidity.

APPENDIX 3

ANNEX TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purpose of Annex V, the Parties agree to define Study Area "B" as:

> The cities of Tijuana, in the State of Baja California, Mexico and San Diego, in the State of California, United States.

For Study Area "B" the Parties agree to define as selected pollutants the following: ozone, nitrogen oxides, carbon monoxide, sulfur dioxide, particulate matter, and lead.

For Study Area "B" the Parties agree to define as selected meteorological parameters the following: speed and direction of wind, and temperature and relative humidity.

APPENDIX 4

ANNEX TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purpose of Annex V, the Parties agree to define Study Area "C" as:

> The cities of Mexicali, in the State of Baja California, Mexico and Calexico, in the State of California, United States.

For Study Area "C" the Parties agree to define as selected pollutants the following: ozone, nitrogen oxides, carbon monoxide, sulfur dioxide, particulate matter, and lead.

For Study Area "C" the Parties agree to define as selected meteorological parameters the following: speed and direction of wind, and temperature and relative humidity.

APPENDIX 5

ANNEX TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purpose of Annex V, the Parties agree to define Study Area "D" as:

> The cities of Nogales, in the State of Sonora, Mexico and Nogales, in the State of Arizona, United States.

For Study Area "D", the Parties agree to define particulate matter as the selected pollutant.

For Study area "D" the Parties agree to define as selected meteorological parameters the following: speed and direction of wind, and temperature and relative humidity.

APPENDIX 6

ANNEX TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

AGREEMENT OF COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION

For the purpose of Annex V, the Parties agree to define Study Area "E" as:

> The cities of Agua Prieta, in the State of Sonora, Mexico and Douglas, in the State of Arizona, United States.

For Study Area "E" the Parties agree to define particulate matter as the selected pollutant.

For Study Area "E" the Parties agree to define as selected meteorological parameters the following: speed and direction of wind, and temperature and relative humidity.

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES

Translating Division

LS No. 150142
JF/HKE
Spanish

The Department of Foreign Relations presents its compliments to the Embassy of the United States and has the honor to refer to its diplomatic note No. 0521 of May 7, 1996, in which it submits a number of proposals concerning new Appendices to Annex V of the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area, signed at La Paz, Baja California, on August 14, 1983 ("La Paz Agreement"). These proposals resulted from the negotiations on this subject between representatives of the Governments of Mexico and the United States of America, to which the Embassy's note referred.

The Department wishes to express its agreement with regard to the revised text of paragraphs 3 and 5 of Article I of Annex V, which will now read as set forth in Annex "A" to this note.

Concerning the additional proposals of the Embassy, and in accordance with the agreement reached during the above-mentioned negotiations, the Department concurs that the existing Appendix to Annex V should be deleted and that six new Appendices should be incorporated therein. These new Appendices are included in this note as Annex "B." In this way, the Department indicates its agreement that a Joint Advisory Committee for Air Quality Improvement will be established under Appendix 1 in the Ciudad Juarez, Chihuahua/El Paso, Texas/Dona Ana County, New Mexico air basin, and that Appendices 2 through 6 will define geographic areas for study to be designated by the letters "A" through "E."

As established in Article IX of Annex V, the Department of Foreign Relations informs the Embassy that the proposal contained in the note from the United States Embassy dated May 7, 1996, and this note in reply constitute an agreement between the two governments that shall enter into force on today's date.

The Department of Foreign Relations avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its high consideration.

Mexico, D.F., May 7, 1996
[Signature]

Embassy of the United States of America,
Mexico, D.F.

Memorandum of Understanding on Cooperation in Forestry and Natural Resources between the Department of Agriculture of the United States of America and the Secretariat of Environment, Natural Resources and Fisheries of the United Mexican States, Mexico City, 1997

Done at Mexico City 5 May 1997

Entered into force 5 May 1997

Primary source citation: Copy of text provided by the U.S. Department of State

The Department of Agriculture of the United States of America (USDA), and the Secretariat of Environment, Natural Resources and Fisheries of the United Mexican States (SEMARNAP) (hereinafter referred to as "the Parties"):

Recognizing that a permanent dialogue and periodic consultations about issues of importance in the forestry and natural resource sectors are fundamental to the improvement of bilateral cooperation;

Noting that cooperation will benefit the development of these sectors in both countries, taking into account their different levels of development and working to solve common problems;

Recognizing that, in accordance with the provisions of Paragraph I of the Agreement between the Government of the United States of America and the Government of the United Mexican States for Scientific and Technical cooperation, signed June 15, 1972, as amended ("the Agreement"), scientific, technological and economic cooperation in the area of forestry and natural resources is of special interest to the Parties;

Recognizing the importance that forestry and natural resource issues have at regional, global and multilateral levels, particularly since the United Nations Conference on Environment and Development, in 1992; and

Aware that scientific, technical and economic exchanges will encourage development and self-sufficiency in both countries, and will permit each country to make a sustainable use of its natural resources;

Have agreed as follows:

ARTICLE 1

OBJECTIVES AND SCOPE

1. The Parties shall identify and implement, by mutual agreement, scientific, technical and economic cooperative activities in forestry and natural resources to promote sustainable development, in accordance with the laws, regulations and policies of their respective governments. Cooperation between the Parties may include mutually beneficial sustainable development projects, short term exchanges and other activities as mutually agreed in the following areas:

A. Forestry related issues, such as planning, assessment and management of sustainable development projects in forestry areas; observation and monitoring systems; development of methodologies for the valuation of goods and services provided by forests; prevention, management and combating forest fires; and scientific research and technological development in forestry.

B. Soils conservation and restoration issues, such as planning, assessment and management of hydrographic, basins and land use patterns; water use, conservation and quality; combating desertification and management of arid and semi-arid areas; and undertaking development projects for conservation, regeneration, utilization and commercialization of non-wood species and products.

2. The Parties shall assist and support technology transfer and information exchange on forestry and natural resource issues, training of personnel and the organization of symposia and conferences in areas of mutual interest and benefit within the scope of this Memorandum of Understanding.

3. The Parties shall encourage activities that promote sustainable development, including the development and diversification of economic and commercial activities relating to goods and services provided by forests and natural resources.

4. The Parties shall encourage activities that promote community participation and public access to information, as well as support to non-governmental organizations that promote sustainable use of forests and natural resources.

5. This Memorandum of Understanding is governed by the Agreement.

ARTICLE 2

SPECIFIC ACTIVITIES

Cooperative activities and the terms under which such activities will be conducted shall be mutually agreed upon by the Parties in writing and shall be described in work plans. The work plans will be prepared jointly by the Parties and shall contain definitions of objectives, terms of reference and specific goals to be achieved; methodology to be followed in the achievement of program objectives; responsibility of each party; available human and financial resources; guidelines for oversight and evaluation of the cooperative program; and guidelines for disposition, publication and/release, by the Parties, of the discoveries and results obtained during the cooperative activity.

ARTICLE 3

COMMITTEES AND CONSULTATIONS

1. Activities under this Memorandum of Understanding shall be administered, by the Forest Service (USDA/FS) and the Subsecretariat of Natural Resources of SEMARNAP.

2. The Parties may form a Coordination Committee and other committees as may be necessary and mutually acceptable to facilitate cooperative activities under this Memorandum of Understanding. These committees shall include representatives from both Parties as may be necessary and mutually acceptable. The specific structure and responsibility of committees, as agreed upon by the Parties, shall be attached as annexes to this Memorandum of Understanding.

3. The committees may be modified by mutual agreement of the Parties.

4. The Parties shall promote, encourage and facilitate, by mutual agreement the development of contacts and cooperation among government agencies, research institutions, private enterprises, universities, international organizations and other entities concerned with cooperative activities within the scope of this Memorandum of Understanding.

ARTICLE 4

REPORTS

The Parties shall report on cooperative activities undertaken under this Memorandum of Understanding in appropriate fora. Reporting shall be coordinated by USDA/FS and Subsecretariat of Natural Resources (SEMARNAP).

ARTICLE 5

FINANCING

Each Party shall assume its respective costs for activities pursuant to this Memorandum of Understanding, unless otherwise mutually agreed to by the Parties. The activities conducted under this Memorandum of Understanding shall be subject to the availability of funds appropriated and available personnel as determined by the Parties.

ARTICLE 6

RELEASE OF INFORMATION

Information resulting from cooperative activities under this Memorandum of Understanding not covered by the intellectual property rights provisions set forth in Article 8 of this Memorandum of Understanding may be released to the international scientific community upon written mutual consent of the Parties. The Parties shall specify that the information released is a result of the joint efforts of the Parties.

ARTICLE 7

EQUIPMENT AND PERSONNEL

The entry of personnel and/or equipment, necessary for the completion of activities under this Memorandum of Understanding, shall be accomplished in accordance with each Party's applicable national laws and regulations and with the revisions of the Agreement

ARTICLE 8

INTELLECTUAL PROPERTY RIGHTS

Intellectual property shall be protected in accordance with Paragraph 14 & Annex I (IPR Annex of August 10, 1994) of the Agreement.

ARTICLE 9

EMPLOYMENT OF EXPERTS

In the event that activities under this Memorandum of Understanding require the employment of experts, the Party receiving such expertise shall release these experts from all liability for claims and/or obligations resulting from their efforts in furtherance of the activity, except for claims and/or obligations resulting from gross negligence or fraudulent conduct on the part of the experts.

ARTICLE 10

MEDICAL INSURANCE

The Parties shall ensure that personnel who participate in cooperative activities under this Memorandum of Understanding are covered by medical insurance. Any service performed in furtherance of this Memorandum by an employee of a Party shall constitute service performed in the line of duty on behalf of that party. The performance of such service by any employee or contractor of one Party shall in no case render such person an employee or contractor of the other Party.

ARTICLE 11

AMENDMENTS

This Memorandum of Understanding may be amended by mutual agreement of the Parties. Amendments shall enter into force upon signature of both Parties or on a date agreed to by the Parties.

ARTICLE 12

RESOLUTION OF DISAGREEMENTS

Disagreements which may arise in the interpretation or application of this Memorandum of Understanding will be resolved by mutual agreement of the Parties.

ARTICLE 13

DURATION AND TERMINATION

This Memorandum of Understanding shall enter into force upon signature of both Parties, and shall remain in force for five (5) years, and may be extended for five-year periods through an exchange of letters between the Parties. This Memorandum of Understanding may be terminated by either Party upon six month's written notice to the other Party.

The termination of this Memorandum of Understanding shall not affect the validity or duration of the cooperative activities under this Memorandum of Understanding that are initiated prior to such termination.

ARTICLE 14

SIGNATURE

This Memorandum of Understanding supersedes the Memorandum of Understanding between the Department of Agriculture of the United States of America and the Secretary of Agriculture and Water Resources of the United Mexican States on Scientific and Technological cooperation in Forestry signed on November 16, 1984.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Memorandum of Understanding.

Done at Mexico City, this 5th day of May 1997, in duplicate, in the English and Spanish languages, each text being equally authentic.

FOR THE DEPARTMENT OF AGRICULTURE OF THE UNITED STATES OF AMERICA

[Signature]
DAN GLICKMAN
Secretary

FOR THE SECRETARIAT OF ENVIRONMENT, NATURAL RESOURCES AND FISHERIES OF THE UNITED MEXICAN STATES

[Signature]
JULIA CARABIAS LILLO
Scretary

Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals of 7 February 1936, Mexico City, 1997

Done at Mexico 5 May 1997

Entered into force (not in force)

Primary source citation: Copy of text provided by the U.S. Department of State

The Government of the United States of America and the Government of the United Mexican States, hereinafter the Parties,

REAFFIRMING their commitment to achieving the purposes and objectives of the Convention between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals, signed at Mexico City February 7, 1936, as supplemented by the agreement effected by exchange of notes at Mexico March 10, 1972, hereinafter "the Convention",

ENCOURAGED by the desire to amend the convention to enable effective actions to be taken to improve the conservation of migratory birds;

COMMITTED to the long-term conservation of shared species of migratory birds for their nutritional, social, cultural, spiritual, ecological, economic, and aesthetic values through a more comprehensive international framework that involves working cooperatively to manage their populations;

ACKNOWLEDGING the desire of the United States to provide for the customary and traditional taking of certain species of migratory birds and their eggs for subsistence use by indigenous inhabitants of the State of Alaska in designated subsistence areas,

HAVE AGREED as follows:

ARTICLE I

Article II (D) of the Convention shall be replaced by the following:

D) The establishment of a closed season for wild ducks from the tenth of March to the first of September, except in the state of Alaska, United States of America, where wild ducks and their eggs may be harvested by the indigenous inhabitants thereof provided that seasons and other regulations implementing the non-wasteful taking of wild ducks and their eggs in such cases shall be consistent with the customary and traditional uses by such indigenous inhabitants for their own nutritional and

other essential needs.

ARTICLE II

1. This Protocol shall enter into force on the date the Parties exchange instruments of ratification.

2. This Protocol shall continue in force for the duration of the Convention and shall be considered an integral part of the Convention.

IN WITNESS WHEREOF the undersigned representatives, being duly authorized by their respective Governments, have signed the present Protocol.

DONE at Mexico City, this 5th day of May, 1997, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

[Signature]
BRUCE BABBITT

Secretary of the Interior

FOR THE GOVERNMENT OF
THE UNITED MEXICAN STATES

[Signature]
JULIA CARABIAS LILLO

Secretary of Environment, Natural Resources and Fisheries

Memorandum of Understanding concerning Biodiversity Conservation Cooperation Particularly in Forest Resources between the Agency for International Development of the Government of the United States of America and the Secretariat of Environment, Natural Resources and Fisheries of the Government of Mexico, Washington, DC, 1998

Done at Washington, DC 10 June 1998

Entered into force 10 June 1998

Primary source citation: Copy of text provided by the U.S. Department of State

The U.S. Agency for International Development (USAID) of the Government of the United States of America, and The Secretariat of the Environment, Natural Resources and Fisheries (SEMARNAP) of the United Mexican States, (herein "the Parties"):

CONSIDERING that the meteorological phenomena that occurred in 1998 have created unprecedented climate conditions leading to a short rainy season with high temperatures and low humidity levels; low water levels; a prolonged dry spell; record-level high temperatures; AND an extraordinary number of forest fires in Mexico;

RECOGNIZING that in light of this, international cooperation has been provided from various institutions, among others, from USAID's Office of Foreign Disaster Assistance, principally to the Mexican States of Chiapas and Oaxaca, and especially to the Chimalapas region;

CONSIDERING that USAID intends to continue its collaboration through assistance for recovery and conservation in critical areas over the medium- and long-term in partnership with Mexico's National Reforestation Program (PRONARE), the National Protected Areas System (SYNAP), and related programs;

CONSIDERING that the Parties recognize the need to continue cooperation on recovery, reforestation and particularly on the conservation of biodiversity ways will be sought to reduce the use of fire in agricultural practices such as in the preparation of soil for cultivation or as a way to increase agricultural boundaries.

RECOGNIZING the need to strengthen the conservation of natural protected areas, as well as their buffer zones and zones of influence that have been affected by forest fires, the need to focus efforts on restoration and sustainable use of these areas, and the need to mitigate future disasters;

Have agreed as follows:

Article 1.

The objective of this Memorandum of Understanding is to develop a Cooperation Program ("Program") for Biodiversity Conservation, and in particular, for forest resources.

Article 2.

This Program includes the restoration, sustainable use, and conservation of areas affected by fires, concentrating on critical forest areas in Mexico.

Article 3.

a. The Parties agree that the funding of individual projects under this Program will be principally administered by the Mexican Conservation Fund (Fondo Mexicano para la Conservacion de la Naturaleza), taking into account other actions currently being carried out in the framework of PRONARE, the Parks in Peril Program, other donor projects, and programs of non-governmental organizations (NGOs) in both countries.

b. All activities under this Memorandum of Understanding will be subject to the applicable laws of each Party and the availability of appropriated funds and resources.

c . This Memorandum of Understanding is subject to the June 27, 1951 Agreement between the United States of America and the United Mexican States on Technical Cooperation.

Article 4.

In order to develop a medium-term Action Plan for institutional development, the Parties will carry out the following diagnostic studies:

a) an analysis of the 1998 fire crisis as well as the response;

b) an analysis of the institutional capacity of the responsible authorities, especially SEMARNAP, in order to determine human resource, equipment, information system and training requirements as well as opportunities for national and international cooperation.

c) a specific analysis of the current situation in the Chimalapas region. A specific strategy is required for this critical region because of its tropical forests, its biological importance, its difficult access, and the degree to which it has been affected by the fires.

Based on the results of these studies, the Parties will prepare an Action Plan to address identified needs.

Article 5.

a. The Parties will conduct a review of agricultural and livestock activities associated with traditional swidden (slash and burn) practices. Alternative approaches such as agroforestry will be considered.

b. This review will require the identification of known and innovative strategies, methods, technologies and practices which are congruent with the sustainable use and conservation of natural resources and the environment.

Article 6.

To address the objectives outlined in this Memorandum of Understanding, the Parties will consider recommenda-

tions from Mexican Federal Public Administration agencies, State and Municipal governments, academic and research institutions, as well as public interest groups and non-governmental organizations in the development and implementation of existing and new programs for adopting new agricultural practices that respect biodiversity conservation.

Article 7.

The Parties will carry out an exchange and training program, to establish a mechanism for technical and financial cooperation with respect to fire suppression, as well as conservation of natural resources and environmental protection. The parties will prepare an Action Plan that will identify practical actions to be taken.

Article 8.

The Parties will explore the development of a program of individual projects and actions such as conservation, sustainable development in biodiversity-rich areas, and the mitigation of climate change through mechanisms such as forestry project investment by the private sector, voluntary climate change mitigation programs, the use of micro-credit, and other similar mechanisms and approaches under this Memorandum of Understanding. The Parties may conclude additional Action Plans that will outline the particular programs, set forth the terms and conditions, and identify the necessary human, financial and other resources.

Article 9.

Any difference that might arise between the Parties relative to interpretations or execution of this Memorandum of Understanding will be considered by common agreement between the Parties.

Article 10.

a. This Memorandum of Understanding will enter into force upon signature by the Parties, and will remain in force for five years and may be extended for an additional five-year period by mutual agreement of the Parties. Either Party may terminate this Memorandum of Understanding upon ninety days written notice to the other Party.

b. This Memorandum of Understanding may be modified by mutual agreement of the Parties.

Signed at Washington on the tenth day of June 1998, in duplicate, in the English language.

FOR THE AGENCY FOR INTERNATIONAL DEVELOPMENT OF THE UNITED STATES OF AMERICA:

[Signature]
J. Brian Atwood
Administrator

FOR THE SECRETARIAT OF ENVIRONMENT, NATURAL RESOURCES AND FISHERIES OF THE UNITED MEXICAN STATES:

[Signature]
Julia Carabias Lillo
Secretary

BILATERAL

MEXICO

NON-BINDING

Letter of Intent between the Department of Interior (DOI) of the United States and the Secretariat of Environment, Natural Resources and Fisheries (SEMARNAP) of the United Mexican States for Joint Work in Natural Protected Areas on the United States-Mexico border, Mexico City, 1997

Done at Mexico City 5 May 1997

Primary source citation: Copy of text provided by the U.S. Department of State

CONSIDERING the long history of cooperation in environmental and natural resource matters between the United States of America and the United Mexican States,

TAKING into account the sovereign right and responsibilities of the Countries over the management and rational use of their natural resources,

DOI and SEMARNAP declare that:

1 By this Letter of Intent, the two agencies plan to expand existing cooperative activities in the conservation of contiguous natural protected areas in the border zone, and to consider new opportunities for cooperation in the protection of natural protected areas on the United States-Mexico border.

2. These actions are to be undertaken within the framework of cooperation existing between both countries, among them, the Agreement between the United States of America and United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area, signed on August 14, 1983; the Memorandum of Understanding on Cooperation in Management and Protection of National Parks and Other Protected Natural and Cultural Heritage Sites, signed on November 30, 1988; the Memorandum of Understanding Concerning Scientific and Technical Cooperation on Biological Data and Information, signed on May, 1995; and the Memorandum of Understanding establishing the Trilateral Committee for Wildlife and Ecosystem Conservation and Management signed by Mexico, Canada, and the U.S. in April, 1996.

3. Taking into account the recent adoption of the Border XXI Program and the creation of the Natural Resources Workgroup, activities that stem from this Letter of Intent are to be reported to this Workgroup.

4. There is a need to strengthen binational cooperation at the local level and to improve dialogue between federal, state, and local agencies responsible for the administration of protected natural areas, and to strengthen the process for voluntary participation by the communities and social organizations that are interested in protecting the natural riches of these zones and in improving the quality of life of their residents.

5. Cooperation under this Letter of Intent is subject to the existing laws and regulations in effect in each country, and should serve to harmonize activities directed at conservation of biological diversity, cultural resources and

ecosystems that are shared along the border between the countries.

6. Cooperation under this Letter of Intent is to be undertaken beginning with two pilot projects in the following natural protected areas and National Parks:

(A) In Mexico, the Biosphere Reserves of the Alto Golfo de California y Delta del Rio Colorado located in Baja California and Sonora and El Pinacate y Gran Desierto de Altar in Sonora, and the adjacent protected areas in the United States, Organ Pipe Cactus National Monument in Arizona, Cabeza Prieta National Wildlife Refuge in Arizona, Imperial National Wildlife Refuge in California and Arizona, and specific special management areas administered by the Department of the Interior, Bureau of Land Management; and

(B) The wildlife protection areas in Mexico of Maderas del Carmen in Coahuila and Canon de Santa Elena in Chihuahua, and the adjacent protected area in the United States, Big Bend National Park in Texas.

7. Under this Letter of Intent, DOI and SEMARNAP activities may include, but are not limited to, the following:

A) Harmonization and coordination of policies leading to the conservation of natural and cultural resources;

B) The exchange of experience among personnel of the two countries, including methods of assessing and managing resources, training, and the generation of new conservation strategies;

C) The implementation of environmental education and training programs for the communities living on either side of the border, and the encouragement of community participation in conservation activities and the sustainable use of the areas' natural protected resources;

D) Expansion of the body of scientific knowledge about the protected natural areas, in their regional ecological, cultural, and socioeconomic context, through cooperation in research projects and the development of mutually-accessible information systems that permit identification of current situation and trends, by monitoring of species, and allows the setting of future priorities for research in shared biological resources;

E) Explore the development of a mechanism for a communications network that permits timely joint response to environmental emergencies, particularly in the case of fires; and

F) Cooperation in each country's respective inspection and surveillance in order to prevent and control illegal activities affecting the natural and living resources in the natural protected areas.

8. DOI and SEMARNAP plan to strengthen cooperation though this Letter of Intent, consistent with the policies of present or future international and inter-institutional agreements or treaties between the United States of America and the United Mexican States.

This Letter of Intent is signed in duplicate English and Spanish texts, in Mexico City, on this 5th day of May of 1997.

For the Department of the Interior

[Signature]
BRUCE BABBITT
Secretary

For the Secretariat of Environment,
Natural Resources and Fisheries

[Signature]
JULIA CARABIAS LILLO
Secretary

Memorandum of Intent between the Department of Commerce of the United States of America and the Secretariat of Trade and Industrial Development of the United Mexican States regarding Environmental Commercial Cooperation, Washington, DC, 1997

Done at Washington, DC 13 November 1997

Primary source citation: Copy of text provided by the U.S. Department of State

The Department of Commerce of the United States of America and the Secretariat of Trade and Industrial Development of the United Mexican States:

ACKNOWLEDGING that bilateral environmental commercial cooperation is a priority for both countries;

RECOGNIZING their previous excellent cooperation in the promotion of commercial relations and bilateral trade in the environmental sector;

NOTING that trade and investment by the private sector plays an essential role in environmental protection; and

BUILDING on the work between the Government of the United States of America and the Government of the United Mexican States under the auspices of the U.S.-Mexico Binational Commission and other bilateral fora:

Hereby express their intention to further cooperate as follows:

I. Improve the dissemination of appropriate environmental and commercial information in both markets to foster bilateral trade and investment in the environmental sector.

II. Facilitate the planning and implementation of commercial activities, such as training seminars, trade exhibitions, and trade missions, designed to promote business and bilateral trade in the environmental sector in the United States of America and the United Mexican States.

The activities under this Memorandum of Intent are made contingent upon the availability of funds, and are to be conducted in accordance with the appropriate laws and regulations of the United States of America and the United Mexican States.

Signed at Washington, this thirteenth day of November, 1997, in English and Spanish languages.

For the United States of America
Department of Commerce:

[Signature]
William M. Daley
Secretary of Commerce

For the United Mexican States
Secretariat of Trade and Industrial
Development:

[Signature]
Herminio Blanco Mendoza
Secretary of Trade and Industrial Development

BILATERAL

POLAND

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Memorandum of Understanding between the Environmental Protection Agency of the United States of America and the Ministry of Environmental Protection, Natural Resources and Forestry of the Republic of Poland concerning Cooperation in the Field of Environmental Protection, pursuant to the Agreement Between the Government of the United States of America and the Government of the Republic of Poland on Cooperation in Science and Technology of 4 September 1992, Washington, DC, 1995

Done at Washington, DC 15 May 1995

Entered into force 15 May 1995

Primary source citation: Copy of text provided by the U.S. Department of State

The Environmental Protection Agency of the United States of America (EPA) and the Ministry of Environmental Protection, Natural Resources and Forestry of the Republic of Poland (the "Ministry"), hereinafter referred to as the "Parties",

Affirming the Parties' desire to maintain and to support close, long-term cooperation in the field of environmental protection;

Noting the importance of international cooperation in solving both global and local environmental problems;

Recognizing the needs of the Central and East European region and the necessity of preventing further degradation of the natural environment of the region; and

Acting in the interests of the societies of both the United States and Poland, including governmental and non-governmental institutions to address and solve environmental problems,

Have agreed as follows:

ARTICLE I (Purpose)

1. This Memorandum of Understanding (the "Memorandum") provides for a program of cooperation between the Parties for the protection of the environment.

2. Activities under this Memorandum are undertaken pursuant to Article II of the Agreement Between the Government of the United States of America and the Government of the Republic of Poland on cooperation in Science and Technology, dated September 4, 1992 (the "S&T Agreement").

ARTICLE II (Scope)

1. Cooperation under this Memorandum may be conducted in the following: air pollution; water quality; hazardous waste; municipal and industrial waste; environmental monitoring; environmental assessments and audits; the environmental effects associated with industrial privatization; the environmental effects of agricultural and forestry management for sustainable development of forests; the effects of pollution on human health; and such other areas as the Parties may agree upon.

2. The forms of cooperation under this Memorandum may consist of the following areas: public awareness and education programs; information transfer and management; training in the development and implementation of public financing options such as user fees, emission charges, and product taxes; joint scientific and technical research and demonstration projects; training in environmental enforcement management techniques; temporary assignments of personnel from one Party to the other; conferences; workshops; symposia; and such other forms of cooperation as the Parties may agree upon.

3. Activities under this Memorandum shall be coordinated, as appropriate, with other bilateral environmental cooperation programs such as the European Union's East European assistance program, as well as with activities sponsored by international financial institutions, such as the World Bank and the European Bank for Reconstruction and Development. Activities shall be designed to be consistent, as appropriate, with the goals of the Environmental Action Program for Central and Eastern Europe, adopted in Lucerne, Switzerland on April 30, 1993.

4. If it is decided by the Parties that a joint project shall be undertaken pursuant to this Memorandum, a project arrangement shall be executed by the Parties. Public or private organizations in the United States and in Poland may participate in aspects of the cooperation activities carried out by the Parties under this Memorandum. Each such project arrangement shall include provisions for carrying out the joint project to which it applies, and shall contain provisions covering technical scope, exchange of proprietary information, project management, total costs and other necessary details. Each such project annex shall be attached to this Memorandum.

ARTICLE III (Funding)

1. Unless otherwise specified, each Party shall bear the expense of its participation under this Memorandum. It is anticipated, however, that a number of activities under this Memorandum will involve a transfer of funds by or through the Parties through appropriate funding mechanisms to the extent consistent with applicable law.

2. The ability of each Party to carry out activities under this Memorandum shall be subject to the availability of appropriated funds, personnel and other resources.

ARTICLE IV (Management)

1. Each Party shall designate three officials to serve on a coordinating committee (the "Committee") to manage activities under this Memorandum. Each Party may designate replacement Committee members at any time upon written notice to the other Party. The Committee shall meet at least annually, and at the request of either Party, to discuss and evaluate the progress of activities under the Memorandum or to review other matters concerning the Memorandum, such as future policy and programmatic direction. The annual meetings of the Committee shall be held alternately in the United States and in Poland at a site to be determined by the host

Party. Meetings held at the request of a Party shall be held at a site to be determined by the requesting Party in its territory.

2. The Parties shall agree in writing on each significant activity to be undertaken pursuant to the Memorandum through a project activity description to this Memorandum. Each project activity description shall specify: the scope of the activity; the expected project period; the responsibilities of the Parties, including those related to funding; anticipated results; reporting procedures, if appropriate; effective date; and any other relevant matter.

3. The Committee shall seek to resolve any dispute concerning the Memorandum through negotiations.

ARTICLE V (Applicability of National Laws)

All activities undertaken pursuant to this Memorandum shall be subject to the applicable law of the United States of America and of the Republic of Poland.

ARTICLE VI (Intellectual Property Rights and Business Information)

The Parties agree, with respect to the protection and allocation of intellectual property rights and confidential business information created or furnished in the course of cooperative activities under this Memorandum, that the activities undertaken pursuant to this Memorandum shall be bound by the provisions of Annex B to the S&T Agreement. Annex B shall constitute an integral part of this Memorandum.

ARTICLE VII (Entry into Force, Extension, Amendment, and Termination)

1. This Memorandum shall enter into force on the date of the last signature hereinafter. The Memorandum shall remain in force for five years or for the duration of the S&T Agreement, whichever is shorter. Unless one of the Parties notifies the other Party in writing of its intention to terminate this Memorandum at least ninety days before its expiration, the Memorandum shall be automatically extended for an additional five-year period, as long as the S&T Agreement remains in force. It may be extended further by written agreement of the Parties.

2. This Memorandum may be amended at any time by written agreement of the Parties. This Memorandum may be terminated at any time by either Party upon ninety days' written notice to the other Party. Unless otherwise agreed in writing, the termination of the Memorandum shall not affect the validity or duration of activities undertaken pursuant to the Memorandum that have been initiated prior to, but not completed at the time of, such termination.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Memorandum of Understanding.

DONE at Washington, in duplicate, this Fifteenth day of May, 1995, in the English and Polish languages, each text being equally authentic.

FOR THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA:
[Signature]

FOR THE MINISTRY OF ENVIRONMENTAL PROTECTION, NATURAL RESOURCES AND FORESTRY OF THE REPUBLIC OF POLAND:
[Signature]

BILATERAL

POLAND

FISHERIES

Agreement Extending the Agreement Between the Government of the United States of America and the Government of the Polish People's Republic of 1 August 1985, as amended and extended, concerning Fisheries Off the Coasts of the United States, Warsaw, 1997

Done at Warsaw 5 February and 25 August 1997

Entered into force 25 August 1997

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA

Note No. 002

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Poland and has the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States, with annexes and agreed minutes, signed at Washington on August 1, 1985, as amended and extended (the Agreement).

The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 31, 1997, be extended for an additional two year period, until December 31, 1999. If this proposal is acceptable to the Government of the Republic of Poland, the Embassy proposes that this note and the Government of the Republic of Poland's favorable note in reply shall constitute an agreement between the two Governments, which shall enter into force on a date to be determined in a subsequent exchange of diplomatic notes following the completion of all necessary internal procedures of both parties.

The Embassy of the United States of America takes this opportunity to convey to the Ministry of Foreign Affairs of the Republic of Poland the assurances of its highest consideration.

Embassy of the United States of America

Warsaw, February 5, 1997

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES
Translating Division
TRANSLATION

LS No. J1P10199800086
Polish
TM/JS

DPT I 361–13–94

The Ministry of Foreign Affairs of the Republic of Poland presents its compliments to the Embassy of the United States of America and has the honor to confirm receipt of United States Embassy note number 002 of February 5, 1997, which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Poland and has the honor to refer to the Agreement concluded between the Government of the United States of America and the Government of the Republic of Poland Concerning Fisheries off the Coasts of the United States, signed at Washington August 1, 1985, with annexes and agreed minutes amending and extending (the Agreement).

"The Embassy proposes, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 31, 1997, be extended for two years, to December 31, 1999. If this proposal is acceptable to the Government of the Republic of Poland, the Embassy proposes that this note and the note in reply of the Government of the Republic of Poland shall constitute an agreement between the two Governments, and that it shall enter into force as of the date of exchange of diplomatic notes, provided that all of the necessary internal procedures on both sides have been carried out."

The Ministry of Foreign Affairs has the honor to confirm that the Government of the Republic of Poland concurs with the sense of the note of the Embassy of the United States of America.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America assurances of its highest consideration. *[handwritten mark]*

Warsaw, August 25,1997

[seal]

Embassy of the United States of America
in Warsaw

CERTIFICATION OF TRANSLATION

I hereby certify that the above translation bearing LS No. J1P1019980086 was prepared by the Office of Language Services of the Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated: October 30, 1997

[Signature]
Chief, Translating Division

BILATERAL

RUSSIA

FISHERIES

Agreement between the Government of the Russian Federation and the Government of the United States of America on the Conservation of Straddling Fish Stocks in the Central Part of the Sea of Okhotsk, Washington, DC, 1996

Done at Washington, DC 8 March 1996

Entered into force 13 June 1996

Primary source citation: Copy of text provided by the U.S. Department of State

The Government of the Russian Federation and the Government of the United States of America, hereinafter "the Parties,"

Guided by the Agreement Between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America on Mutual Fisheries Relations of May 31, 1998, hereinafter "the 1988 Agreement,"

Recognizing the importance of long-term conservation of straddling fish stocks in the Sea of Okhotsk, particularly the pollock resources of the Sea of Okhotsk, with a view to sustainable development of fisheries in that region,

Guided by the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, which recognizes the rights, duties and interests of the coastal State in areas of high seas surrounded entirely by an area under the national jurisdiction of that State,

Taking into account the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas,

Taking into account that the Russian Federation has done its utmost to conserve and manage fish stocks in the Sea of Okhotsk on the basis of the best scientific evidence available, in order to create the conditions for sustainable fisheries,

Noting that there is an enclave in the Sea of Okhotsk that is beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the Russian Federation is measured, hereinafter "the central Sea of Okhotsk," which constitutes only 2.7 percent of the entire Sea of Okhotsk and is completely surrounded by the exclusive economic zone of the Russian Federation,

Expressing serious concern over unregulated fishing in the central Sea of Okhotsk by vessels of non-coastal States,

Realizing that such fishing can irrevocably damage the pollock resources of the Sea of Okhotsk and, accordingly, the entire ecosystem of that Sea by threatening the fishery resources in that region, on which the coastal communities in particular depend,

Have agreed as follows:

ARTICLE 1

The Parties recognize that the conservation of the stocks and management of fishing in the central Sea of Okhotsk must be based upon the best scientific evidence available and on the application of the precautionary approach, and that any fishing for straddling stocks in the central Sea of Okhotsk is subject to the rights, duties and interests of the Russian Federation.

ARTICLE 2

The Government of the United States of America shall ensure that nationals and vessels subject to its jurisdiction observe measures adopted by the Russian Federation for the conservation and management of the pollock resources in the Sea of Okhotsk, including the central Sea of Okhotsk, that are compatible throughout the entire biological range of these resources.

ARTICLE 3

1. Each Party shall prohibit nationals and vessels subject to its jurisdiction from fishing for pollock in the central Sea of Okhotsk until the Government of the Russian Federation determines, on the basis of the best scientific evidence available, that the pollock resources of the Sea of Okhotsk have recovered sufficiently to allow for a resumption of such fishing.

2. In the event that the Government of the Russian Federation is considering conservation and management measures for stocks of pollock that would allow for a resumption of pollock fishing in the central Sea of Okhotsk, it shall conduct appropriate consultations with the Government of the United States of America, having due regard for the cooperation of the United States of America pursuant to this Agreement.

ARTICLE 4

The Parties shall cooperate for the purpose of studying and analyzing scientific data and exchanging information regarding the pollock resources in the central Sea of Okhotsk through mechanisms established in the 1988 Agreement or as otherwise may be agreed by the Parties.

ARTICLE 5

1. The Parties agree to invite the attention of any third party to any matter relating to the fishing operations of its nationals, residents or vessels flying its flag that could affect adversely the long-term sustainable use of the pollock resources of the Sea of Okhotsk.

2. The Parties shall, consistent with international law, encourage any third party to respect the conservation and management measures for pollock stocks in the Sea of Okhotsk adopted by the Russian Federation.

3. If the fishing operations of nationals, residents or vessels of any third party could affect adversely the long-term sustainable use of the pollock resources of the Sea of Okhotsk, the Parties shall take measures, individually or collectively, in accordance with international law, that they deem necessary and appropriate to deter such operations.

4. The Parties shall cooperate with a view to preventing damage to the pollock resources of the Bering Sea by vessels flying the flag of a third party that may be displaced from the central Sea of Okhotsk consistent with the objective of this Agreement.

ARTICLE 6

The Parties shall annually consult concerning the implementation of this Agreement through mechanisms established by the 1988 Agreement.

ARTICLE 7

This Agreement shall enter into force upon an exchange of diplomatic notes indicating that the Parties have carried out the internal procedures necessary for its entry into force, and shall remain in force concurrent with the 1988 Agreement.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at _____, in duplicate, in the Russian and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
RUSSIAN FEDERATION

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

Amendments to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, with annexes, of 31 May 1988, as amended and extended, Moscow, 1998

Done at Moscow 28 July and 23 November 1998

Entered into force 18 June 1999

Primary source citation: Copy of text provided by the U.S. Department of State

EMBASSY OF THE
UNITED STATES OF AMERICA

No. MFA/099/98

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to refer to the Agreement Between the Governments of the United States of America and the Union of Soviet Socialist Republics on Mutual Fisheries Relations, with annexes, signed on May 31, 1988. as extended and amended (the Agreement).

The Embassy of the United States of America has the honor to propose, on behalf of the Government of the United States of America, that the Agreement, which is currently scheduled to expire on December 1, 1998, be extended for an additional five-year period, until December 31, 2003. If this proposal is acceptable to the Government of the Russian Federation, the Embassy of the United States of America proposes that this note and the favorable note in reply of the Russian side shall constitute an agreement between our two Governments, which shall enter into force upon a subsequent exchange of diplomatic notes following the fulfillment of all state procedures of both parties.

This note corrects and supersedes the note MFA No. 098/98.

The Embassy of the United States of America avails itself of the opportunity to extend to the Ministry of Foreign Affairs of the Russian Federation renewed assurances of its highest consideration.

[Seal]

Embassy of the United States of America,

Moscow, July 28, 1998

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES

(Translation)

LS No. 1290707
LAP/YS
Russian

Moscow, November 23, 1998

Your Excellency,

I have the honor to confirm receipt of your note No. MFA/099/98 of July 28,1998, which reads as follows:

[Here follows the text of the U.S. diplomatic note in Russian.]

Further, I have the honor to inform Your Excellency that this proposal is acceptable to the Government of the Russian Federation and that your note and this reply will constitute an Agreement between our Governments on this matter. Since the internal government procedures necessary for entry into force of this Agreement in the Russian Federation have been completed, we assume that the Agreement will enter into force as of the date of the response notifying us of completion of the relevant internal government procedures by the U.S. side.

Once again, please accept, Your Excellency, the assurances of my highest consideration.

[Stamp of the Russian Federation
Ministry of Foreign Affairs]

[s] I. Ivanov

His Excellency James Collins,
Ambassador Extraordinary and Plenipotentiary
of the United States of America
to the Russian Federation,
Moscow

BILATERAL

RUSSIA

NON-BINDING

Joint Statement of Implementation of the United States-Russian Special Environmental Initiative, Moscow, 1996

Done at Moscow 16 July 1996

Primary source citation: Copy of text provided by the U.S. Department of State

During the Seventh Session of the U.S.-Russian Joint Commission on Economic and Technological Cooperation held July 15-16, 1996 in Moscow, the Vice President of the United States of America and the Chairman of the Government of the Russian Federation received reports by the Administrator of the U.S. National Oceanic and Atmospheric Administration (NOAA) and the Minister of Environmental Protection and Natural Resources of the Russian Federation, Cochairmen of the joint Environmental Working Group.

The Environmental Working Group was established in June, 1995 to examine approaches of the two countries to the uses for environmental purposes of information obtained by space-based, air-borne, sea-based, and *in situ data* collection systems and contained in national security data acquisition systems.

The Environmental Working Group Cochairmen presented an Arctic Winter Period Oceanographic Atlas containing scientifically important hydrographic data sets which validate Arctic Ocean circulation models and improve understanding of Arctic climatology and the global carbon cycle at high latitudes. The Vice President of the United States of America and the Chairman of the Government of the Russian Federation evaluated positively the continuation of work in this area and approved the Environmental Working Group's plans to produce three digital atlases that combine U.S. and Russian data for Arctic oceanography, meteorology, and sea ice. These plans entail sharing previously unreleased archived data sets collected over the past 30 years.

In the area of environmental disaster monitoring and assessment, the Environmental Working Group Cochairmen reported on a joint study on the environmental consequences of the May, 1995 Neftegorsk earthquake which incorporated civil and national security information.

The Commission Cochairmen approved the Environmental Working Group's conclusions that combining information from national security data systems with civil data, without jeopardizing the national security of either country, can substantially improve monitoring and quick assessment of environmental disasters. They considered it reasonable to select and implement other projects which could include studying and assessing the effects of volcanoes in the Kamchatka/Alaska area and pollution effects in coastal areas of both countries.

In order to enhance the level of cooperation during implementation of joint projects, the Environmental Working Group has begun work on a communications link between Washington and Moscow.

The Vice President of the United States of America and the Chairman of the Government of the Russian Federation noted with approval that the first stage of a communications capability, based on the Internet, is already in operation. They endorsed the Environmental Working Group's plans to begin implementation of the next stage which will involve creating a high-speed link between NOAA and the Ministry of Environmental Protection and Natural Resources.

The Vice President of the United States of America and the Chairman of the Government of the Russian Federation also expressed satisfaction with the Environmental Working Group's plans for two new initiatives involving energy resource development and forestry.

The first initiative will formulate an oil and gas environmental risk assessment methodology, based on a Geographic Information System (GIS) model employing civil and national security data inputs from each country, for the Priob' region of western Siberia. This methodology could lead to more effective means of assessing and managing environmental risk of large oil/gas development projects. The Environmental Working Group reported it expects to conclude the first set of risk assessment methodology studies by the next session of the Commission meetings.

The joint forestry initiative, which will also use data from national security systems, has three scientific objectives: to evaluate the health of forest systems under potential stress from man-made effects; to analyze changes in the tundra-taiga boundary as an indication of the effects of long-term global temperature changes; and to gain insights into sustainable development of forestry resources. To achieve these ends, the study will select several small sites, along four longitudinal transects, one in the U.S. (Alaska) and three in Russia.

In conclusion, the Vice President and the Chairman expressed satisfaction with the progress made in the year since establishment of the Environmental Working Group. To underscore their mutual commitment to continued cooperation in the use of data from national security systems for environmental purposes, the Vice President and the Chairman directed the Cochairmen of the Environmental Working Group to develop a joint work program for 1997 for review at the next session of the US-Russian Joint Commission on Economic and Technological Cooperation.

[Signature]
Vice President of the
United States of America

[Signature]
Chairman of the Government
of the Russian Federation

Moscow, July 16, 1996

Statement of Intent between the Government of the United States of America and the Government of the Russian Federation on Joint Implementation of Measures to Reduce Emissions of Greenhouse Gases, Moscow, 1996

Done at Moscow 16 July 1996

Primary source citation: Copy of text provided by the U.S. Department of State

The Government of the United States of America and the Government of the Russian Federation (hereinafter referred to as "the Participants"),

Recognizing:

that enhancing environmental protection, and, in particular, controlling greenhouse gas emissions to limit potentially adverse climate change impacts, would be mutually beneficial;

that limiting the adverse impacts of climate change requires global actions to which the Participants can make significant contributions, and that the Participants have a mutual interest in working together in this area;

that the Participants proceed from the objectives, principles, and commitments of the United Nations Framework Convention on Climate Change (FCCC), and in particular, on the basis of equity and in accordance with the common but differentiated responsibilities and respective capabilities of the FCCC Parties;

that each of the Participants will benefit from cooperation in the development, use and dissemination, including transfer, of technologies, methods, and processes leading to the reduction, limitation or cessation of anthropogenic greenhouse gas emissions in all relevant sectors of the economy, including energy, transport, industry, agriculture, forestry and waste removal;

that the Participants in fulfilling their FCCC commitments may implement policies and measures jointly with other parties and may assist other parties in contributing to the achievement of the objectives of the Convention;

that the Participants, will benefit from joint implementation of measures to reduce or limit emissions of greenhouse gases and to increase their absorption (hereinafter referred to as "joint implementation");

that there is the potential for additional investment in environmentally, socially and economically sound development through private sector participation;

that many practices and technologies that limit greenhouse gas emissions also contribute to the control of local and regional environmental problems and that verifiable, cost-effective, world-wide greenhouse gas emission reductions may be achieved by encouraging such reductions, in countries where responsive solutions are available,

through investment and possible financial and technical assistance from individuals and organizations in other industrialized countries;

and taking into account the decisions that were taken by the first FCCC Conference of the Parties held in Berlin from March 29-April 7, 1995, with respect to the pilot phase for joint implementation;"

Declare as follows:

The Participants intend to facilitate the development of joint implementation projects which would stimulate market deployment of modern greenhouse gas-reducing technologies, including: the use of low-emission fossil fuels; measures to improve efficiency in energy use and in the application of renewable energy technologies; increased diversification of energy sources; the reduction of greenhouse gas emissions in all sectors, including the production, distribution and transportation of energy resources; conservation, restoration, and enhancement of carbon sinks in forest, agricultural, grazing and other lands; joint educational and training programs, and information-related programs.

The Participants invite other nations to endorse this Statement as an indication of the intention of their Governments to participate in sustainable development cooperation and joint implementation. This cooperation could contribute to the development of an accessible international joint implementation program which is sensitive to environmental, developmental, social and economic priorities. Such cooperation should encourage partnerships between the Participants, the private sector, non-Governmental and other organizations.

The participants intend that the forms of cooperation under this framework may include, but are not limited to, the following:

A. Adequate and mutually agreed cooperation between the project evaluation panel and secretariat of the U.S. Initiative on Joint Implementation (USIJI) and the Interagency Commission of the Russian Federation on Climate Change Problems (MKPK) in discharging the duties delegated to them by their respective Governments. These include project review, project evaluation, and issuance of official statements of acceptance for joint projects. Specifics of the procedures of coordination between the USIJI evaluation panel and secretariat and the MKPK are to be agreed upon. A description of the functions and organization of these bodies is provided in Annex I of this Statement of Intent;

B. Design of the program criteria to facilitate acceptance of joint projects consistent with the priorities of the United States of America and the ground rules of USIJI, as well as with the priorities of the Russian Federation and with the ground rules of the MKPK, for measures to reduce greenhouse gas emissions and increase absorption of carbon dioxide by various means, including joint implementation of such measures. The Participants' domestic priorities may also include the issues of biodiversity conservation, ecosystem protection, reduction of local pollution, sustainable land-use practices, the opportunity to improve the economics of agriculture, and local participation in project planning and execution;

C. Timely review and issuance of official statements of project acceptance or status for projects involving partners in both countries, by the USIJI to MKPK or MKPK to the USIJI, including for those projects currently under consideration;

D. Identification and support of projects that potentially satisfy the criteria for joint implementation pilot programs established by the Participants;

E. Exchange of information on issues of common interest relating to joint implementation, including: the determination of greenhouse gas emission and absorption baselines for projects and countries; prospects for practical implementation of the Participants' participation in the pilot and subsequent phases of activities jointly implemented under the auspices of the FCCC; the methods and mechanisms of monitoring and external verification of the achieved levels of greenhouse gas reductions and of the increase in their absorption; standardization of the methods and mutual reporting of the achieved levels of greenhouse gas emission reductions; methods for quantification of potential credits (in the future), consistent with the criteria for project selection in established national pilot programs for joint implementation;

F. Outreach and promotion of joint implementation, as well as of other sustainable development activities in the public, private, and non-Governmental sectors, including dissemination of information about the national criteria of the Participants for this sphere of activity, the availability of resources for giving technical assistance,

workshops and conferences, and the use of information networks;

G. Support of the international pilot phase of joint activities at international fora, including at the FCCC Conferences of the Parties and meetings of the Conference's subsidiary bodies. This pilot phase should:

- be open to all Parties;
- be voluntary and additional to the obligations of the Parties under the FCCC;
- be focused primarily on information exchange and the rapid development of effective international criteria for joint implementation.

Further, the assessment of individual projects for the international pilot phase is the responsibility of the individual Governments and/or the private entities involved;

H. Exploration of credible certification of emissions reductions, including the determination of reasonable greenhouse gas emission and absorption baselines at the project level;

I. Design of activities and projects implemented in accordance with this Statement of Intent, for the purposes of:

1. Encouraging increased private sector involvement in sustainable development projects and joint implementation;

2. Fostering the establishment of continuous financing vehicles and other mechanisms to assist private entrepreneurs to build successful enterprises that support joint implementation-related energy, industrial, transport and forestry sector projects;

3. Providing information concerning additional sources of project funding and logistical elements that facilitate access to such sources; and

4. Facilitating the exchange of information concerning arrangements of business agreements, joint ventures and licensing agreements among companies and enterprises in the Participants' nations.

The Participants also intend that any project concerning joint implementation, or other joint activities and arrangements implemented pursuant to this Statement of Intent will be the subject of separate documentation on terms accepted by all parties to such activity. Furthermore, the Participants intend to include appropriate patent and intellectual property rights provisions, as well as provisions to protect business confidential information, in any agreements concerning individual projects. In the event that any activity involves access to patents or other intellectual property rights, or sharing or transfer of technologies pursuant to patents or other intellectual property rights, access to such information must be provided on terms which are consistent with the adequate and effective protection of intellectual property rights.

The original text in English and in Russian of this Statement of Intent will be deposited at the U.S. Department of State and the Russian Federation Ministry of Foreign Affairs.

Signed at Moscow, this sixteenth day of July, 1996, in duplicate.

For the Government of
The United States of America:
[Signature]

For the Government of
the Russian Federation:
[Signature]

Annex 1

Responsibilities and Organization of the Interagency Commission of the Russian Federation on Climate Change Problems and the U.S. Initiative on Joint Implementation

U.S. Initiative on Joint Implementation

The U.S. Initiative on Joint Implementation (USIJI) was announced and published as an element of President Clinton's Climate Change Action Plan in October, 1993. Its final ground rules were published by the Department of State in the Federal Register on June 1, 1994. These ground rules establish the Evaluation Panel, name two co-chairs (Department of Energy and Environmental Protection Agency), and six other agencies as members (Department of State, Agency for International Development, Department of the Treasury, Department of Interior, Department of Agriculture, and Department of Commerce). The Evaluation Panel and the USIJI Secretariat serve as the government office for the U.S. with responsibility for project evaluation and issuance of official statements regarding joint implementation and project proposals.

The ground rules also charge the Panel with responsibility for reviewing and accepting or rejecting joint implementation project submissions within 90 days of the receipt of a complete proposal submission or resubmission. The criteria for evaluation of proposals also are specified in the ground rules.

Developers of joint implementation projects submit proposals to the USIJI Secretariat, which reviews the proposals for completeness in meeting its criteria. Technical review by experts is performed. Questions about the project baseline, greenhouse gas emissions or sequestration benefits, monitoring and other issues, information gaps in the proposal, feasibility of implementation of the project, and sources of potential financing are submitted to the proposers, who are asked to provide any additional information needed. The Secretariat prepares a proposal summary and recommendation, which is forwarded to a meeting of the Evaluation Panel, which makes decisions on each proposal. These decisions are communicated to the proposers by letter and to the public in an announcement ceremony.

USIJI will serve as the U.S. coordinator of cooperation with the Interagency Commission of the Russian Federation on Climate Change Problems.

Interagency Commission of the Russian Federation on Climate Change Problems

The Interagency Commission of the Russian Federation on Climate Change Problems (MKPK) was established in spring, 1994, by two special orders of the Government of the Russian Federation that appointed the MKPK chairperson and confirmed he composition of the MKPK regulations governing it.

A.I. Bedritsky, Director of the Federal Hydrometeorology and Environmental Monitoring Service of Russia, was appointed chairman of the MKPK. The MKPK was composed of representatives of about 30 Russian Federation ministries and agencies (including the Ministry of Foreign Affairs, Ministry of the Economy, Ministry of Finance, Ministry of Fuel and Energy, Ministry of Transportation, Ministry of Agriculture and Food, the Federal Forestry Service, the Water Management Committee, the Russian Space Agency, the Water Management Committee, the Russian Space Agency, the Ministry of Environmental Protection and natural Resources, the Federal Hydrometerology and Environmental Monitoring Service, the Russian Academy of Science, etc.)

The MKPK is tasked primarily as follows:

- coordinating the work of the Russian Federation ministries and agencies to reduce effects of economic activities on climate and to prevent adverse impacts of climate change on the economy and the environment;

- coordinating the activities of the Russian Federation ministries, agencies, and organizations to ensure fulfillment of Russia's obligations under the U.N. Framework Convention on Climate Change with respect to stabilizing the concentration of greenhouse gases in the atmosphere at a level that would preclude a dangerous anthropogenic impact on the climate system;

- organizing and coordinating the Russian Federation's activities as a participant in Convention bodies and in international cooperation on problems of climate change.

Within the aforementioned tasking, the MKPK handles the Russian Federation's participation in joint activities by the Parties to the Convention. A special Working Group has been constituted within the MKPK to review project proposals for joint implementation of measures designed to limit or reduce greenhouse gas emissions and to increase absorption; this Working Group's taskings include reviewing proposals for such projects, evaluating them, providing the necessary paperwork support during their implementation, and preparing the requisite informational materials about these activities. The MKPK takes the Working Group's findings as a basis for deciding whether to approve project proposals, whether they need additional work, or whether to reject them.

The MKPK is the Russian Federation coordinator for issues of cooperation with the U.S. Initiative for Joint Implementation.

Joint Statement on Development of a Targeted Program to Reduce Environmental and Health Risk From Lead Contamination in the Russian Federation, Washington, DC, 1998

Done at Washington, DC 11 March 1998

Primary source citation: Copy of text provided by the U.S. Department of State

The Co-Chairs of the Environment Committee of the U.S.-Russian Joint Commission on Economic and Technological Cooperation are pleased to note the initiation of joint efforts to formulate a lead risk reduction strategy for the Russian Federation, based on latest international experience and scientific-technological accomplishments. They believe that targeted cooperation in this area is timely and should help avoid increased environmental contamination from lead and lead compounds resulting from the operation of various industrial sectors, especially nonferrous metal production and recycling, and from increased use of leaded gasoline in automobile transport in the Russian Federation.

This need to address the problem of lead contamination follows from the results of joint epidemiological research, carried out by the U.S. Centers for Disease Control and Prevention and the R.F. Sanitary-Epidemiological Service, and from recommendations contained in the 1996 "white paper" report on lead contamination in Russia, prepared by the R.F. State Committee for Environmental Protection with financial support from the U.S. Agency for International Development (USAID). U.S.-Russian cooperation on this task implements decisions reached at the May 1997 Environmental Summit of the Eight (Miami, FL) focused on the environmental risks to children's health. It is also consistent with various multilateral initiatives (the 1996 OECD Declaration on Lead Risk Reduction, negotiation of a heavy metals protocol under the Long-Range Transboundary Air Pollution Convention, and activity within the framework of the "Environment for Europe" process).

With these considerations in mind, Russian Federation Government Directive No. 1237 of September 26, 1997, instructed federal Russian authorities to formulate a targeted program entitled, "Protection of the Environment from Lead Contamination and Reduction of Its Impact on Public Health." Development of the program will be financed from the R.F. Federal Environmental Fund and from non-budgetary sources. With financial support provided by USAID, the U.S. Environmental Protection Agency intends to participate in this effort together with the R.F. State Committee for Environmental Protection, which is the proponent agency for the program and will coordinate the work of various R.F. ministries and agencies. Preparation of the draft targeted program should be completed by the end of this year.

The Vice President of the United States of America, Al Gore, and the Chairman of the Government of the Russian Federation, V.S. Chernomyrdin, are gratified by the success of the Environment Committee in cooperation to reduce the risk from lead contamination.

The Administrator of the U.S. Environmental Protection Agency and the Chairman of the R.F. State Committee for Environmental Protection underscore the importance of international cooperation to ensure favorable environmental conditions for the people of Russia and for the global community as Russia continues on the path of economic transformation, today and in the years to come.

[Signature]
Administrator
U.S. Environmental Protection Agency

[Signature]
Chairman
R.F. State Committee for
Environmental Protection

Washington, March 11, 1998

BILATERAL

SOUTH AFRICA

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Terms of Reference of the Conservation, Environment, and Water Committee of the South Africa-United States Binational Commission, Pretoria, 1995

Done at Pretoria 5 December 1995

Entered into force 5 December 1995

Primary source citation: Copy of text provided by the U.S. Department of State

Whereas the Government of the Republic of South Africa and the Government of the United States of America, referred to as the Parties, established the South Africa-United States Binational Commission on 1 March, 1995; and whereas the Department of Environmental Affairs and Tourism and the Department of Water Affairs and Forestry of the Republic of South Africa and the Department of the Interior of the United States of America intend to facilitate cooperation in conservation, environment and water, the Parties agree as follows:

ARTICLE I

South Africa-United States Conservation, Environment and Water Committee (the "Committee") is hereby established by the Government of the Republic of South Africa and the United States of America (the "Parties") as a bilateral committee to facilitate cooperation in conservation, environment and water between the Parties. These Terms of Reference are intended to provide a general framework to guide cooperation between the Parties.

ARTICLE II

The Committee will provide advice and guidance to the Parties, exchange information, and encourage bilateral discussions in the following areas:

A. Sustainable development and utilization of wildlife resources, including trade in wildlife resources and issues related to implementation of the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora with appendices, as amended (CITES);

B. Environmental management capacity building, including environmental laws, policies and practices that encourage sound environment management and sustainable development, with particular attention to promoting pollution prevention, township environmental concerns and land and water management.

C. Citizen participation and non-governmental organization involvement in resource management issues and increased interaction between United States and South African conservation and environmental non-governmental organizations, academic and research institutions, and private environmental technology and services companies.

D. International environmental instruments, such as the 1992 Convention on Biological Diversity, with annexes; the 1971 Convention on Wetlands of International Importance Especially as Waterfowl Habitat; the 1992 United Nations Framework Convention on Climate Change; the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage; the 1994 United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification Particularly in Africa, and other conventions and organizations.

E. Scientific methods, such as satellite imagery, geographic information systems and other advanced techniques, to monitor and assess aspects of land degradation, habitat quality, species protection and resource management.

F. Conservation of the white and black rhino, the African elephant and other endangered species. South Africa's population of white rhino is healthy and growing, whereas the species is virtually extinct throughout the rest of Africa. South Africa, together with Zimbabwe and Botswana, has the largest and healthiest remaining population of African elephant.

G. Systemic exchange of information between and among counterpart government agencies, particularly on conservation activities and environmental laws, policies and programs.

H. Management of Fisheries.

ARTICLE III

The Committee will be co-chaired by the Ministers of Environmental Affairs and Tourism and of Water Affairs and Forestry of South Africa and the Secretary of the Interior for the United States of America.

ARTICLE IV

The Committee will consists of senior officials from appropriate departments and entities under the Republic of South Africa Government and the United States Government.

ARTICLE V

The Committee will be comprised of working groups as appropriate. These include a working group on wildlife conservation. Additional working groups may be established upon agreement by the Parties. Each working group shall formulate and adopt appropriate procedural rules to govern their respective meetings outside the Committee.

ARTICLE VI

The Committee will work on the basis of mutual agreement and shall, as necessary, adopt rules of procedure and work programs. The Committee shall meet at least twice annually as mutually agreed upon by the Parties alternately in South Africa and the United States. Any measures on recommendations resulting from the Committees or its sectoral working groups will specify whether subsequent approval of the parties is required. Any document mutually agreed upon during the work of the Committee will be in the English language.

ARTICLE VII

These Terms of Reference may be amended by mutual agreement of the Parties at any time.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed and sealed these Terms of Reference, in duplicate, at Praetoria on this 5th day of December 1995.

[Signature]
FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

[Signature]
FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

[Seal]

BILATERAL

TRINIDAD AND TOBAGO

NON-BINDING

Partnership for Environmental Protection between the United States of America and the Republic of Trinidad and Tobago, Tobago, 1998

Done at Tobago 5 April 1998

Primary source citation: Copy of text provided by the U.S. Department of State

RECALLING the Declaration of the United States/Caribbean Summit, celebrated in Bridgetown, Barbados, in May 1997;

RECOGNIZING the importance of environmental protection management policies, including measures to address the causes of adverse climate change, to the well-being of present and future generations in the Western Hemisphere;

ACKNOWLEDGING the commitment in the Final Declaration of the Hemispheric Summit on Sustainable Development, celebrated in Santa Cruz de la Sierra, Bolivia, in December 1996, to promote the development of compatible national systems of environmental legislation and regulatory compliance that provide high levels of environmental protection in the Americas,

REAFFIRMING the commitment to the hemispheric Partnership for Pollution Prevention as provided in the Action Plan of the Summit of the Americas, celebrated in Miami, United States of America, December 1994;

RECALLING Principle 4 of the 1992 Rio Declaration on Environment and Development of the United Nations Conference on Environment and Development, which asserts that environmental protection constitutes an integral part of the development process and cannot be considered in isolation from it;

FURTHER RECALLING Principle 6 of the Rio Declaration, which acknowledges the special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable;

NOTING that Principle 9 of the Rio Declaration calls on states to cooperate to strengthen internal capacity-building for sustainable development by improving scientific understanding through the sharing of scientific and technical knowledge;

REAFFIRMING their mutual commitments to protect the marine environment made through the 1983 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (the "Cartagena Convention"); and

REAFFIRMING their determination, as stated in Section I, Article 8 of the United States/Caribbean Summit Plan of Action, to strengthen cooperative efforts on environmental protection in furtherance of sustainable development;

Intend to cultivate a partnership between the Environmental Management Authority of Trinidad and Tobago and its counterpart environmental protection agencies in the United States of America in the interest of protecting public health and the common natural heritage of mankind.

Cooperation under this partnership is intended to foster, but not be limited to, measures in the following areas:

- Protecting the marine environment from land-based sources and activities, including improved management of solid and hazardous wastes.

- Controlling air pollution to address the risks of adverse climate change, protect the ozone layer, and reduce the risks from exposure to airborne lead.

- The safe management of chemicals, especially pesticides.

- Institutional development, especially with regard to environmental law, regulatory enforcement, and compliance strategies.

- Risk assessment and risk management.

Nothing set forth above will create or imply any financial or binding commitment on the part of either side. Activities under this partnership are intended to be conducted in a manner consistent with the policies and commitments made under existing multilateral and bilateral agreements to which the United States and Trinidad and Tobago are signatories.

The private sector and public interest organizations may be invited to participate in improving national environmental protection performance, advise on the formulation and implementation of public policy, and to promote community-based environmental protection programs.

Signed at Tobago, April 5, 1998

[Signature]
Madeleine K. Albright
Secretary of State
United States of America

[Signature]
Basdeo Panday
Prime Minister
Republic of Trinidad and Tobago

BILATERAL

VENEZUELA

ENVIRONMENT AND NATURAL RESOURCE PROTECTION

6572 - -

Memorandum of Understanding between the National Park Service of the Department of the Interior of the United States of America and the National Parks Institute of the Ministry of Environment and Renewable Natural Resources of the Republic of Venezuela, Caracas, 1997

Done at Caracas 12 October 1997

Entered into force 12 October 1997

Primary source citation: Copy of text provided by the U.S. Department of State

The National Park Service of the Department of the Interior of the United States of America, hereinafter referred to as "NPS", and the National Parks Institute of the Ministry of Environment and Renewable Natural Resources of the Republic of Venezuela, hereinafter referred to as "INPARQUES";

Recognizing the mutual interest between NPS and INPARQUES, hereinafter referred to as the "Parties", in the establishment and management of national parks, and other protected areas within their respective jurisdictions, for the purpose of conserving ecosystems and promoting ecotourism;

Taking into consideration the advantages of facilitating, coordinating and amplifying efforts in conservation, management and development of natural and cultural resources in parks of mutual interest;

Noting the mutual interest and strengthening cooperation between the Parties in the exchange of information and informal educational activities for the management and operation of parks;

Acknowledging the mutual objectives and interests of the Parties declared in the Agreement between the United States of America and the Republic of Venezuela on the Development and Facilitation of Tourism of September 27, 1989; the Convention Concerning the Protection of World Cultural and Natural Heritage of November 16, 1972; the Protocol for Specially Protected Areas and Wildlife of January 18, 1990, under the Convention on the Protection and Development of the Greater Caribbean Region, of March 24, 1993; the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere of October 12, 1940; and the five-year Memorandum of Understanding between the National Park Service of the Department of the Interior of the United States of America and the National Parks Institute of the Ministry of Environment and Renewable Natural Resources of the Republic of Venezuela on Cooperation and Management and Protection of National Parks and other Protected Natural and Cultural Heritage Sites of October 1, 1991;

Have Agreed as Follows:

ARTICLE 1

This Memorandum has as its objective the creation of a framework for cooperation between the Parties concerning the conservation of protected natural areas and their biodiversity, under the Jurisdiction of the Parties, respectively.

ARTICLE 2

1. The Parties will meet periodically as necessary alternating between the two countries, to discuss projects and possible areas for future cooperation.

2. Each Party will designate a Coordinator to direct, to approve and to monitor the progress of cooperative activities developed to accomplish the objectives outlined in this Memorandum. Documentation, in support of the proposed projects, may be submitted by either Party and will obtain a description, the objectives, a calendar of events and date of conclusion, required equipment and personnel and estimated costs for each Party.

3. Each project will be carried out under the supervision of a NPS and an INPARQUES team leader, selected respectively by each of the Parties. The team leaders will jointly develop and submit a final report on each project.

4. Any changes to the agreed projects will require the concurrence of both Coordinators.

ARTICLE 3

1. The forms of cooperative activities under this Memorandum may consist of the provision and exchange of information; participation in training courses, conferences, and symposia; professional exchanges in areas of mutual interest; and other forms of cooperative activities as mutually agreed upon.

2. The specific areas of interest for cooperative activities may include, but are not limited to:

   A. Collaboration between the Parties in the planning, development, management and operation of protected natural parks for areas within their jurisdiction within their respective countries; and in the planning and design of visitor programs and facilities.

   B. Specialized projects related to the management of protected natural areas, including, but not limited to, urban and mountain parks and marine coastal parks, for areas within their jurisdiction within their respective countries.

   C. Exchange of information regarding the goals of this Memorandum and on other related areas concerning conservation and environmental protection mutually identified and accepted by the Parties.

   D. Development of educational and public information focusing on the environment and in understanding protected natural areas within their jurisdiction within their respective countries.

3. For involvement requested by INPARQUES that extends into subjects outside the scope of NPS, NPS may, with the consent of INPARQUES, and to the extent consistent with existing laws, regulations and policies of the United States of America, endeavor to enlist the participation of other organizations or agencies of the United States of America in the development and implementation of activities within the scope of this Memorandum. For involvement requested by NPS that extends into subjects outside the scope of INPARQUES, INPARQUES may, with the consent of NPS, and to the extent consistent with existing laws, regulations and policies of the Republic of Venezuela, endeavor to enlist the participation of other organizations or agencies of the Republic of Venezuela, in the development and implementation of activities within the scope of this Memorandum.

ARTICLE 4

Cooperation under this Memorandum will be subject to the availability of funds and personnel of each Party, and will be conducted in accordance with the laws and regulations of each country. The nature and extent of funding of each project will be agreed upon by the Parties before its commencement.

ARTICLE 5

Information transmitted by one Party under this Memorandum will be accurate to the best knowledge and belief of the transmitting Party. The transmitting Party does not warrant the suitability of the information transmitted for any particular use of or specific application by the receiving Party.

ARTICLE 6

Nothing in this Memorandum will be construed to prejudice other existing or future Agreements concluded between the Governments of the United States of America and the Republic of Venezuela, nor will it affect the rights and obligations of the two Governments under international agreements to which they are a Party.

ARTICLE 7

This Memorandum will enter into force upon signature and will remain in force for five years. It may be extended or amended by written agreement of the Parties.

This Memorandum may be terminated at any time by either Party upon written notification ninety days in advance of such termination. The termination of the Memorandum will not affect the validity or duration of projects under this Memorandum which are initiated prior to such termination.

Done at Caracas, on this 12th day of October, 1997, in duplicate in English and Spanish, both the texts being equally authentic.

[Signature]
John F. Maisto
Ambassador of the
United States of America

[Signature]
Luisa Himiob de Rojas
President of the
National Parks Institute

DATE DUE

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